

CHAPTER 13

Municipal Utilities

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ARTICLE 1

Water and Sewer Systems

Sec. 13-1-10. Sanitation District.

The Town is the owner of a municipal sewage system, with the usual facilities for the collection, treatment and disposal of sewage. The Town shall provide the necessary service in connection therewith in accordance with the rules, regulations, terms, provisions, conditions, rates, charges, payments, penalties and limitations as set forth in this Chapter and prescribed for the use of said sewer system within the boundaries of the Town of Crested Butte Sanitation District, its limits and boundaries being the entire platted area of the Town. (Prior code 14-1-1)

Sec. 13-1-20. Town waterworks.

The Town is the owner of a municipal water plant, with the usual and necessary water lines, appurtenances and appliances for the furnishing of water for domestic, commercial and fire protection purposes. The Town shall furnish the water and provide the necessary service in connection therewith in accordance with the rules, regulations, terms, provisions, conditions, rates, charges, payments, penalties and limitations as set forth in this Chapter and prescribed for the use of the water and the operation of the plant in connection therewith, its limits and boundaries being the entire platted area of the Town. (Prior code 14-1-2; Ord. 17 §1, 1994)

Sec. 13-1-30. Policy and purpose.

It is hereby declared that the rules and regulations herein set forth are to serve a public use and are necessary to insure and protect the health, safety, prosperity, security and general welfare of the inhabitants of the Town. (Prior code 14-1-3)

Sec. 13-1-40. Definitions.

For the purposes of this Chapter, the following terms shall have the meanings herein given:

Actual cost means all direct costs applicable to the construction of a given facility, including construction, engineering, inspection, plan approval fees, all fees and costs of administration and other costs necessary for completion.

Base allotment means the amount of water a customer represented by an EQR may use within the base rate as established by the Town from time to time.

Base rate means the monetary assessment each month for each customer-based EQR as calculated by the Town, and adjusted from time to time, to provide a revenue source intended to cover the Town's fixed operating costs in producing, treating and supplying its customers with water in increments of one thousand (1,000) gallons.

Bathroom means a room equipped with a toilet, lavatory and shower and/or bathtub.

Bathtub means any bathing fixture with a water capacity of one hundred fifty (150) gallons or less.

Block means the incremental range, as established by the Town from time to time, by which assessments are directed to water customers represented by one (1) or more EQRs for water use above the base rate of consumption, and the basis for which additional charges above the base rate shall be assessed to the Town's water customers.

Building drain means that part of the lowest horizontal piping of a building drainage system from the stack or horizontal branch, exclusive of storm sewer, extending to a point not less than five (5) feet outside the building wall.

Customer means any person authorized to use the public water or sewer system under a permit issued by the Town.

Equivalent Residential Use or *EQR* means the estimated use of the Town water and sewer systems by a single-family residence of up to one thousand eight hundred seventy-five (1,875) square feet in floor area. Nonresidential uses and larger residential uses are calculated using the equivalent residential use as a basis.

Family means an individual, two (2) or more persons related by blood or marriage or between whom there is a legally recognized relationship, or not more than five (5) unrelated persons living together as a single housekeeping unit in a residential unit.

Floor area means any area enclosed by the exterior walls of a structure having a ceiling height of five (5) feet or greater from a floor level, provided that garage spaces shall be computed at fifty percent (50%) of the actual floor area.

Industrial waste means the liquid wastes from industrial processes as distinct from sanitary sewage.

Kitchen means a designated space containing at least one (1) device or appliance for heating food, a separate sink with hot and cold running water and a refrigeration appliance.

Metered water rate means the monetary assessment as established by the Town, and recalculated from time to time, based on dollars assessed per one thousand (1,000) gallons of water used per EQR, which shall not be less than the base rate.

Owner means the person owning the real property served by the Town water or sewer system.

Public sewer line means a sewer in which all owners of abutting properties have equal rights, and which is controlled by the Town.

Rental unit, long-term means a residential property rented by a natural person or entity to any other natural person, for a term of not less than six (6) months, which limitation of rental term shall be recorded in the real property records of the County pursuant to Section 16-9-70 of this Code. Such property may not be rented to any person with greater than ten percent (10%) ownership interest in the property, or to any person with greater than ten percent (10%) ownership interest in any entity with ownership of the property. For purposes of this definition, *natural person* is only an individual and shall not include any association, firm, partnership, corporation or any other entity.

Residential unit means one (1) or more rooms, in addition to separate kitchen and bath facilities, intended or designed for occupancy by a family, independent of other families, on a long-term basis.

Restaurant means a place where meals and other foods are served to the public, whether for consumption on or off the premises, and where alcoholic beverages may be served. Food is prepared on-site, utilizing service, dish and food preparation washing facilities. The term includes restricted food service establishments, which are subject to different parking and EQR requirements. The term does not include:

- a. Private boarding and rooming houses;
- b. Child care centers, hospitals and nursing homes;
- c. Establishments existing primarily for purposes other than providing beverages or food which do not have seating for consuming food or beverages, and which serve only coffee, tea or other beverages, popcorn or cotton candy, and prepackaged nonperishable doughnuts, pastries or other similar items obtained from sources complying with all relevant state laws;
- d. Vendors, as defined in Section 6-4-10 of this Code; or
- e. Theaters not providing more than traditional theater snacks to their patrons.

Restricted food service establishment means a food service establishment serving only prepackaged food in individual portions which may be warmed or otherwise handled after selection on site only by the purchaser, or serving ice cream. These establishments do not cook raw food, use waitpersons or mechanical dishwashers, or serve alcoholic beverages. At least one (1) restroom is required on the premises for such establishments without patron seating, and at least two (2) restrooms, male and female, are required on the premises for such establishments with patron seating. One (1) three-compartment sink for dishwashing and one (1) separate hand sink are required on the premises. One (1) compartment of the three-compartment sink may be designed for vegetable preparation if it is individually, indirectly wasted or air-gapped on the waste line. Since mechanical dishwashers are not allowed in restricted food service establishments, in order to mitigate the potential greater usage of paper or plastic to serve food, such establishments are required to use recycled paper for all food-related paper containers, and no plastic containers may be used. The use of a hood to eliminate steam, smoke, grease or heat (as defined in the Mechanical Code as adopted by the Town) or an automatic dishwasher shall define the establishment as a *restaurant*. A restricted food service establishment shall have a maximum of three (3) fixture units as defined in the Plumbing Code as adopted by the Town. Additional fixture units shall define an establishment as a *restaurant*.

Service line means the water or sewer line that connects the Town's distribution system to the owner's property or structure, including that part of such line on public property, any valves or cleanouts within said line, and all valves, water meters, attachments or other fixtures constituting the physical tap-in to the Town system.

Sewage means any liquid waste containing animal or vegetable matter in suspension or solution from residences, businesses, institutions and industrial establishments.

Sewer means a pipe or conduit for carrying sewage.

Tap or connection means the action of connecting the service line to the Town system.

Town system-sewer means the sewer system, including all lines, owned and maintained by the Town.

Town system-water means the water system, including all lines, owned and maintained by the Town.

User means any person to whom water or sewer service is supplied, whether it is a renter, record owner, corporation, company, individual, public entity, etc.

Water meter means a required electronic measuring device, approved and inspected by the Town when installed on a water customer's service line, from which water usage may be determined for each EQR by employees of the Town, or a designated agent, periodically monitoring readings emitted from the meter. (Prior code 14-1-4; Ord. 2 §1, 1991; Ord. 11 §2, 1991; Ord. 7 §§2—5, 1994; Ord. 3 §4, 1995; Ord. 3 §§1, 2, 2001; Ord. 2 §7, 2003; Ord. 25 §1, 2003; Ord. 4 §1, 2009)

Sec. 13-1-50. Connection with Town system required.

(a) All new buildings or structures containing plumbing fixtures or facilities shall be connected to the Town water system and sewer system.

(b) All existing buildings and structures containing or required to contain plumbing facilities or fixtures shall connect to the Town water and sewer systems when that system line is available within one hundred fifty (150) feet of the property line of the property upon which the building or structure is situated. Said connection shall be made within three (3) months from the date that said sewer and/or water line is available, unless extended for good cause, by written agreement. (Prior code 14-1-5; Ord. 7 §6, 1994)

Sec. 13-1-60. Private systems prohibited.

A private well or any other source of water shall not be constructed, installed or maintained within Town without the written permission of the Town, which permission shall not be granted except for good cause shown. No private sewage disposal system, septic tank, vault, closet, privy or cesspool of any type or description shall be constructed, kept or maintained at any place within the Town unless specifically approved in writing by the Town. (Prior code 14-1-6)

Sec. 13-1-70. Damage to system unlawful.

No person shall alter, maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, equipment or appurtenance which is part of the Town's water or sewer system, including water meters, or attempt to avoid any lawful service charges. No person shall interfere with any water meter or its associated equipment, or in any way attempt to alter a water meter reading, affect the accuracy of a water meter reading or allow the unmetered flow of water to take place. Any person violating this Section is subject to criminal prosecution on a misdemeanor charge and, upon conviction, shall be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 14-1-7; Ord. 7 §7, 1994; Ord. 3 §3, 2001; Ord. 4 §1, 2009)

Sec. 13-1-80. Permit required.

(a) No person shall open, uncover or in any way connect any plumbing to the Town system without first obtaining a written permit from the Town.

(b) No person shall construct, install, move, expand, connect or disconnect any plumbing service or any portion of a service line on public or private land to any Town system line, or change the use for which the services are supplied which, when connected or changed, requires the payment of a system development fee, an incremental system development fee, an increased service charge, a connection charge or a disconnection charge, without first obtaining a written permit from the Town. (Prior code 14-1-7; Ord. 7 §7, 1994; Ord. 3 §3, 2001)

Sec. 13-1-90. Application for permit.

The application for the permit required by Section 13-1-80 above shall be in writing, signed by the owner of the property for which the permit is sought and shall contain, in addition, the following information:

- (1) The name and address of the owner of the property.
- (2) The street address of the property for which the permit is sought.
- (3) The legal description of the property for which the permit is sought.
- (4) A description of the structures and buildings located on or to be constructed or enlarged on the property for which the permit is sought, which shall include:
 - a. The number of square feet in each building or structure; and
 - b. The number of dwelling, office, commercial or other units on the property.
- (5) The location of every service line and the point at which each service line will be connected to the Town system.
- (6) A description of the type and size of each connection to be made between a service line and the Town system.
- (7) A description of the pipe and any valves to be used in the service line, including the materials and size.
- (8) Any other information which, due to the particular circumstances of the property or use thereof, the Town reasonably deems necessary to ascertain whether or not the permit should be issued. (Prior code 14-1-8)

Sec. 13-1-100. Issuance of permit.

If the application discloses that all work to be performed under the permit will be in full compliance with all state statutes and Town resolutions and ordinances, the permit shall be issued only as part of a building permit or change of use approval for the subject property upon payment of all fees and charges

required by this Code. All existing and future tap permits are appurtenant to the real property and structures identified in the applications therefor and, if not so identified, to the real property and structures they serve; and neither the permits nor their ownership may be separated from the ownership of said real property or structure. (Prior code 14-1-9; Ord. 7 §8, 1994)

Sec. 13-1-110. System development fee.

(a) A system development fee must be paid prior to the issuance of the permit required above; prior to the commencement of the construction; prior to installation or expansion of use of a service line; and prior to connecting any service line to a Town system.

(b) The system development fee for a single-family residence shall be eight thousand dollars (\$8,000.00) multiplied by the EQR of that use for the Town System-Water, except as otherwise set forth in Subsection (e) below; and an amount equal to eight thousand dollars (\$8,000.00) multiplied by the EQR of that use for Town System-Sewer, except as otherwise set forth in Subsection (e) below.

(c) The system development fee for every other type of use shall be an amount equal to eight thousand dollars (\$8,000.00) multiplied by the EQR of that use for Town System-Water, except as otherwise set forth in Subsection (e) below; and an amount equal to eight thousand dollars (\$8,000.00) multiplied by the EQR of that use for Town System-Sewer, except as otherwise set forth in Subsection (e) below.

(d)(1) Incremental Water System Development Fee = [(EQR) new minus (EQR) old] times (\$8,000.00), for Town System-Water.

(2) Incremental Sewer System Development Fee = [(EQR) new minus (EQR) old] times (\$8,000.00), for Town System-Sewer.

(e) The system development fee for rental units, long-term and other Town-recognized affordable housing units and lots shall be a total of one-third ($\frac{1}{3}$) the rate otherwise appropriate to be charged a comparably classified residential unit under this Chapter for the Town System-Water and the Town System-Sewer. The fee for affordable housing units or lots may be partially or totally waived by the Town for good cause shown.

(f) All system development fees shall be maintained in a separate account and shall be spent only for capital improvement to the Town systems. (Prior code 14-1-10; Ord. 14 §1, 1993; Ord. 1 §1, 1994; Ord. 3 §3, 1995; Ord. 43 §1, 1995; Ord. 21 §2, 1997; Ord. 16 §1, 1999; Ord. 19 §1, 2001; Ord. 8 §1, 2003; Ord. 29 §1, 2003; Ord. 17 §1, 2005; Ord. 32 §1, 2007; Ord. 24 §1, 2008; Ord. 18 §1, 2009)

Sec. 13-1-120. Metered water rates per meter.

(a) There is hereby levied and charged against all owners, as defined in this Article, a minimum monthly service charge per installed meter for water used at a base rate of twenty dollars (\$20.00) for the first eight thousand (8,000) gallons used per applicable EQR, or additional fraction thereof (base allotment).

(1) The first five-thousand-gallon block, multiplied by the applicable EQR and fraction thereof, there shall be an additional assessment of two dollars and fifty cents (\$2.50) for each of the next one thousand (1,000) gallons, or portion thereof, of water used above the base allotment.

(2) The second five-thousand-gallon block, multiplied by the applicable EQR and fraction thereof, shall be charged two dollars and seventy-five cents (\$2.75) for each additional one thousand (1,000) gallons of usage or portions thereof.

(3) The third five-thousand-gallon block, multiplied by the applicable EQR and fraction thereof, shall be charged three dollars (\$3.00) for each additional one thousand (1,000) gallons of usage or portion thereof.

(4) The fourth five-thousand-gallon block, multiplied by the applicable EQR and fraction thereof, shall be charged three dollars and twenty-five cents (\$3.25) for each additional one thousand (1,000) gallons of usage or portion thereof.

(5) The fifth five-thousand-gallon block, multiplied by the applicable EQR and fraction thereof, shall be charged three dollars and seventy-five cents (\$3.75) for each additional one thousand (1,000) gallons of usage or portion thereof.

(6) Thereafter, each five-thousand-gallon block multiplied by the applicable EQR and fraction thereof, shall be charged four dollars and twenty-five cents (\$4.25) for each additional one thousand (1,000) gallons of usage or portion thereof.

(b) The base allotment and the amount of water consumed within the additional five-thousand-gallon blocks, or portions thereof, shall always be multiplied by the applicable number of EQRs and any additional fractions thereof.

(c) There is no maximum assessment amount. (Prior code 14-1-11; Ord. 14 §1, 1993; Ord. 7 §9, 1994; Ord. 14 §1, 1994; Ord. 43 §2, 1995; Ord. 21, 1997; Ord. 16 §2, 1999; Ord. 19 §2, 2001; Ord. 25 §1, 2003; Ord. 20 §1, 2004; Ord. 23 §§1, 3, 2004; Ord. 32 §2, 2007; Ord. 24 §2, 2008; Ord. 4 §1, 2009; Ord. 11 §1, 2009)

Sec. 13-1-130. Assessment of water rates.

Metered water rates shall be assessed each month, commencing with the monthly bill mailed by the Town and received by owners in January 2004, based on the formula established in Section 13-1-120 above. Owners or customers with new or additional EQRs and associated water meters will be assessed the base rate and any applicable additional usage charges commencing upon the issuance of a certificate of occupancy, or upon evidence of water usage based on readings from the water meter, whichever comes first. (Prior code 14-1-11.1; Ord. 25 §1, 2003)

Sec. 13-1-140. Abatement of metered water charges.

There shall be no abatement or reduction in metered water charges as established in this Article, except as otherwise provided in this Article or elsewhere in this Code. (Prior code 14-1-11.2; Ord. 7 §10, 1994; Ord. 25 §1, 2003)

Sec. 13-1-150. Sewer service rates.

There is hereby levied and charged against all owners as defined in this Article a monthly service charge for the use of the Town sewer system. The monthly service charge for use of Town sewer system shall be thirty dollars (\$30.00) times the respective EQR calculated pursuant to Section 13-1-170 below. Monthly service charges shall commence upon the issuance of a certificate of occupancy, or six (6) months after payment of the system development fee, whichever occurs first. There shall be no abatement or reduction of the monthly service charge, except as otherwise provided in Section 13-1-140 above. (Ord. 25 §2, 2003; Ord. 17 §2, 2005; Ord. 32 §3, 2007; Ord. 24 §3, 2008)

Sec. 13-1-160. Availability of service fee.

(a) There is hereby levied and charged against all owners of a building site, as that term is defined in Article 15 of this Code, within the Town whose building site is located within one hundred fifty (150) feet of water or sewer lines installed and ready for connection but to which lines said building site is not connected, an availability of service fee in the amount of seven dollars and fifty cents (\$7.50) per month for water for each building site and seven dollars and fifty cents (\$7.50) per month for sewer for each building site. If the costs of the water or sewer line are paid by a person or entity other than the Town, the applicable availability of service fee will not commence until the building site is thereafter sold by the developer.

(b) Any owner of a building site who uses such building site as a yard incidental to a residential use may be exempted from the requirement to pay this availability of service fee, upon proof of such yard use and execution and recordation of a restrictive covenant evidencing such owner's agreement that such building site will be used as a yard and for no other purpose, to the satisfaction of the Town Manager. In the event that any owner who has executed such a restrictive covenant desires to rescind such covenant, prior to the Town's agreement to rescind such covenant, the owner must pay all availability of service fees that would have been charged hereunder but for his or her execution of such restrictive covenant, plus eighteen percent (18%) interest on the total fee.

(c) The Town Manager shall have the discretion to partially or totally waive the availability of service fee levied and charged against an owner of a building site if such site is utilized by the Town for parking, snow storage, open space or other public purpose. The terms and conditions of any such waiver shall be set forth in writing and executed by the property owner and Town Manager. (Prior code 14-1-12; Ord. 7 §11, 1994; Ord. 3 §2, 1995; Ord. 43 §3, 1995; Ord. 19 §3, 2001; Ord. 17 §3, 2005; Ord. 24 §4, 2008)

Sec. 13-1-170. Equivalent Residential Use Schedule.

(a) The following Equivalent Residential Use Units, or EQRs, are hereby established for the various customer classifications within the Town. Unless otherwise specified, EQRs shall be rounded to the nearest hundredth for purposes of calculating system development fees and rounded to the nearest tenth for purposes of calculating service rates.

Equivalent Residential Use Schedule

<i>Customer Classification</i>	<i>EQR</i>
1. Permanent residential units:	

a. Residential units with a floor area of 1,875 square feet or less	1.0
b. Residential units with a floor area greater than 1,875 square feet shall have an EQR calculated by the following formula: $\frac{\text{square footage of unit}}{1,875} = \text{EQR}$	
2. Transient residential units for rent in hotels, motels, lodges and residences:	
a. Basic rate, including manager's quarters	1.0
b. Each additional sleeping unit without cooking facilities	0.35
c. Each additional sleeping unit with cooking facilities	0.5
3. Bars, restaurants and establishments serving food and/or beverages:	
a. Establishments with a floor area of 375 square feet or less of seating space; also the base rate for any restaurant use	1.36
b. Each additional 375 square feet of seating space or part thereof	0.55
c. Restricted food service establishments:	
1) The EQR for such an establishment with no seating that is a minor part of another existing business with at least 1 existing restroom shall be included in such other business use	
2) The EQR for such an establishment with 375 square feet or less of seating space that is a minor part of another existing business with at least 2 existing restrooms shall be included in such other business use	
3) Such an establishment with no seating which is added to an existing business space with no EQR or no restroom, or when it is the only use in a building or condominium unit	1.0
4) Such an establishment with a floor area of 375 square feet or less of seating space when it is the only use in a building or condominium unit	1.36
5) Each additional 375 square feet of seating space or part thereof when it is the only use in a building or condominium unit	0.55
6) Outdoor seating areas of restaurants shall be charged one-quarter the equivalent residential use base rate otherwise required for restaurants	
4. Automobile service stations:	
a. Without a wash rack	1.36
b. Additional for each wash rack	0.8
5. Commercial or public buildings used as stores, offices, warehouses or other similar uses, including small businesses:	
a. Each building or customer with 1,500 square feet or less, or each such use of 400 square feet or less accompanied by 1 living unit	1.0
b. Each additional 1,500 square feet or part thereof	0.5
c. Each additional 1,500 square feet or part thereof, when used as nonoccupied retail, showroom, shop or warehouse space	0.3
d. Each first pair of public restrooms	1.0
e. Each additional pair of public restrooms in excess of 1 pair	0.8
6. Churches and other nonprofit organization halls with no residence or regular eating facilities	1.0

7. Public or private schools:	
a. Base rate for first 50 students or part thereof	2.0
b. Each additional 30 students or part thereof	1.0
8. Swimming pools, hot tubs and other bathing fixtures larger than a bathtub in conjunction with other use classifications:	
a. Bathing fixtures with a water capacity of 151 to 750 gallons:	
1) Fixtures which use is restricted to private, noncommercial, residential purposes only	0.00
2) Fixtures associated with any commercial establishment	0.1
b. Bathing fixtures with a water capacity of 751 to 5,000 gallons	0.2
c. Fixtures with a water capacity of 5,001 gallons or more	0.2 per 5,000 gallons or part thereof
9. Coin-operated laundromats, per machine in service by load capacity:	
a. Basic fee, including first standard size machine	1.0
b. Each additional machine less than 12 lbs. (standard size)	0.5
c. Each additional machine of 12.1 to 21.0 lb. capacity	0.7
d. Each additional machine of 21.1 to 31.0 lb. capacity	1.0
e. Each additional machine of 31.1 to 41.0 lb. capacity	1.3
f. Each additional machine of 41.1 to 51.0 lb. capacity	1.6
g. Each additional machine of 51.1 to 61.0 lb. capacity	2.0
10. Metered service, where meters are required for any user as determined by the Town:	
a. Minimum rate for first 10,000 gallons monthly	1.0
b. Each additional 1,200 gallons, or fraction thereof, per month	0.1

(b) Rates for uses not specifically described in the above schedule shall be individually negotiated.

(c) Any building or structure containing multiple uses shall have a cumulative EQR based on the sum of the separate uses.

(d) The minimum EQR, or base rate, shall be no less than one (1.0) for each customer. (Prior code 14-1-13; Ord. 7 §12, 1994; Ord. 3 §4, 1995; Ord. 8 §2, 2003; Ord. 25 §1, 2003; Ord. 8 §2, 2005; Ord. 4 §1, 2009)

Sec. 13-1-180. Disconnection and reconnection charges.

After a service line has been tapped into the Town water system, there may be levied a charge established by resolution of the Town Council for turning water service off or on. (Prior code 14-1-14; Ord. 7 §13, 1994; Ord. 4 §1, 2009)

Sec. 13-1-190. Miscellaneous rates and provisions.

Any person may dump trailer sanitary tanks upon being granted specific permission to do so by the Town, only at a location designated by the Town. There may be levied a charge as set by resolution of the Town Council per one hundred (100) gallons for any such permitted dumping. (Prior code 14-1-15; Ord. 7 §14, 1994; Ord. 19 §1, 1999; Ord. 4 §1, 2009)

Sec. 13-1-200. Payment of charges and fees.

All service charges shall be paid monthly, in advance, on or before the 15th of the month at the office of the Town. In the event of default or tardiness in any payment required by this Article, including system development fees, incremental system development fees, monthly service charges, disconnection fees or reconnection fees and connection charges, there shall be added a delinquency charge of three percent (3%) per month of delinquency, plus the reasonable costs of collection, including attorneys' fees. Service charges shall be charged against the property owner commencing upon the issuance of a certificate of occupancy, at the time of actual occupancy or six (6) months after payment of the system development fee, whichever occurs first. (Prior code 14-1-16)

Sec. 13-1-210. Lien for nonpayment.

In the event of a failure to make any payment called for by this Article, the Town Clerk shall certify to the County the amount due, which shall become a lien on the real property upon which said payment is due, and shall be collected in the manner set forth for general property taxes. (Prior code 14-1-17)

Sec. 13-1-220. Maintenance by owner.

Each owner shall be responsible for installing and maintaining the entire length of his or her own service line, including that portion which traverses public property, except that water meters may only be maintained, repaired or replaced by the Town. The Town shall, in its sole discretion, make the determination that a water meter must be repaired or replaced. Such repair or replacement, which shall be accomplished at the Town's direction, using the type of water meter as determined by the Town and in such manner and by such method as the Town may determine, shall be at the expense of the owner. It is the duty of each user to notify the Town if his or her water meter is operating defectively. If repair or replacement of a meter is required, the cost of such repair or replacement shall be added to the user's service charge bill. Breaks, leaks, frozen lines and other stoppages or malfunctions in the service line shall be repaired by the owner within seventy-two (72) hours after the Town notifies the owner of the break, leak, freezing or other stoppage or malfunction, or he or she otherwise has knowledge thereof; provided, however, that if weather conditions render immediate repair impossible, the time may be extended upon written consent of the Town. If satisfactory progress towards repair of the break, leak or other malfunction has not been made within the required time, the Town shall have the right and authority to repair or have repaired the service line at the expense of the owner, and to assess and collect said expense in the manner set forth for other charges and fees. If the owner is not evident, the Town may repair the service line without notice to the owner and assess said expense to the owner, once identified. (Prior code 14-1-18; Ord. 7 §15, 1994; Ord. 3 §4, 2001; Ord. 4 §1, 2009)

Sec. 13-1-230. Discharges into sewer system.

(a) No person shall discharge or cause to be discharged any water bleeding flows, stormwater, surface water, groundwater, roof runoff water, subsurface drainage, cooling water or unpolluted industrial process waters into any sanitary sewer.

(b) No person shall discharge or cause to be discharged into any public sewer any water or waters, whether liquid, solid or gas, capable of causing obstruction to the flow in sewers; damage or hazard to structures, equipment or personnel of the sewer works; or other interference with the proper operation of the sewage works.

(c) All restaurants or establishments where food is served and all filling stations and garages having wash and/or grease racks connected with the sewer system shall install and use a grease or sand trap, or other interceptor of suitable size and construction, as shall be approved by the Town in accordance with the Plumbing Code adopted by the Town. (Prior code 14-1-19; Ord. 7 §16, 1994; Ord. 4 §1, 2009)

Sec. 13-1-240. Abandonment of service lines or tap permit.

(a) A service line and tap permit shall be presumed to be abandoned by the owner when service charges have been unpaid for a period of one (1) year. Upon abandonment pursuant to this Section, Town service can be resumed only upon payment of a new system development fee and any other current or past due service charges.

(b) If a structure served by a Town system is torn down or destroyed, the owner can either voluntarily abandon the service line and tap permit, or prevent abandonment by paying all past due service charges, and current service charges, to the Town in an amount of fifty percent (50%) of the structure's EQR rate until such time as the structure is replaced and a certificate of occupancy is issued therefor. After such time, the appropriate full service charge shall be assessed.

(c) An owner may voluntarily abandon his or her service line and tap permit by written notice of his or her intention to do so to the Town. Such service line and tap permit shall be deemed abandoned upon receipt of said notice. The service line or tap permit may not be restored unless and until a new system development fee and all current and past due service charges have been paid.

(d) If a service line and tap permit are abandoned pursuant to this Section, service charges to the property or structure shall cease to accrue upon the effective date of the abandonment. (Prior code 14-1-20; Ord. 7 §17, 1994)

Sec. 13-1-250. Construction standards.

(a) Water service lines, appurtenances and equipment shall be constructed and installed by the owner in accordance with the following standards:

(1) The owner shall furnish the Town with as-built drawings at the completion of construction, showing the location and dimensions of all construction and the type of materials used therein.

(2) All pipe installation, trenching, backfilling and other necessary construction for the service line shall be done and paid for by the owner.

(3) Every water service line for single-family residences shall be no less than three-fourths (¾) inch in diameter. Water service lines for all other types of users shall be of sufficient size to accommodate the anticipated usage, and in no event shall any water service line be constructed or installed without the prior written approval of the Town by issuance of a permit in accordance with Section 13-1-100 of this Article.

(4) All water service lines shall be of water-tight construction and properly connected to the Town water supply system so as to achieve a smooth flow of water.

(5) The entire length of every service line and all appurtenances thereto, whether located on private or public property, shall be constructed of materials as required by the Town and installed and inspected for approval as required by the Town.

(6) The entire length of every service line shall be inspected and approved in writing by the Town after installation and before the trench is backfilled.

(7) Every service line shall be connected to the Town water supply system at such point as the Town shall designate in writing.

(8) No more than one (1) user shall be allowed to use a single service line or tap-in, and each separate building on separate property shall be tapped into the Town water supply system using a separate and individual service line and tap. The above provisions may be waived in writing at the sole discretion of and by the Town Manager for good cause shown.

(9) Each water service line shall contain a curb stop.

(10) The owner shall own and maintain the service line from the building water supply line to the Town's water line upon a street or alley.

(11) All water meters shall have devices for remote reading. The type of water meter and location of the meter and remote reading shall be approved and inspected by the Town.

(b) Sewer service lines and appurtenances shall be constructed by the owner in accordance with the following standards:

(1) The owner shall furnish the Town with as-built drawings at the completion of construction, showing the location and dimensions of all sewers, manholes, cleanouts and service connections.

(2) The owner shall own and maintain the service line from the public sewer line to the building drain.

(3) All the pipe installation, trenching, backfilling and other necessary construction for the service line shall be done by the owner or his or her contractor, and paid for by the owner.

(4) All service lines shall be constructed of materials as required by the Town and installed and inspected for approval as required by the Town. All pipe installed for service lines shall have watertight joints and shall be inspected and approved by the Town after installation and before the trench is backfilled. The connection to the public sewer shall be at a point designated by the Town.

(5) No more than one (1) user shall be allowed to use a single sewer connection line, and each separate building on separate property shall be required to tap into the sewer system using a separate and individual service line and tap. The above provisions may be waived in writing at the sole discretion of and by the Town Manager for good cause shown.

(6) All service lines shall be not less than four (4) inches of inside diameter and shall be installed and laid with a slope or fall of not less than one percent (1%). All connections to the sewer system shall be a "Y" branch or connection. A minimum of one (1) outside cleanout for each fifty (50) feet of service line shall be installed.

(7) All service lines shall be of watertight construction and properly connected to the sewer system in a manner to result in a smooth exit, with no part of the service line protruding into the service main.

(8) All private sewage disposal systems, septic tanks, vaults, closets, privies or cesspools shall be properly disconnected, sealed, filled in and covered as may be required, within one (1) year or a reasonable period thereafter from the date of connection of the property upon which the same is located to the sewer system. (Prior code 14-1-21; Ord. 7 §§18—20, 1994; Ord. 3 §5, 2001; Ord. 4 §1, 2009)

Sec. 13-1-260. Discontinuance of water service.

In addition to other remedies provided by this Code, the Town may discontinue water services to any property or unit for which charges or fees as provided for in this Chapter are delinquent for more than sixty (60) days. In such event, the Town Clerk shall give written notice of delinquency and intent to discontinue water service to the property unit after sixty (60) days of delinquency. Such notice shall state the amount of such charges or fees due and that the water service shall be discontinued at any time after sixty (60) days of delinquency, but no sooner than twenty (20) days after the date of said notice. Charges to such property or unit shall continue after discontinuance of service, unless the service line is deemed abandoned pursuant to Section 13-1-240 above. All costs associated with disconnection and reconnection shall be paid by the owner. (Prior code 14-1-22; Ord. 7 §21, 1994)

Sec. 13-1-270. Extension of Town systems within Town boundaries.

(a) No person, unless contracted by the Town to do so, may extend the Town system without compliance with all of the following conditions:

(1) The Town Council makes a specific determination for each piece of property and building for which service is sought:

a. That it is in the best interest of the Town to allow private construction of such service; and

b. That the service could be provided without jeopardizing the capacity of the Town system to adequately serve all Town customers.

(2) The applicant agrees, in writing, to comply with all provisions of this Code.

(3) The applicant submits plans and specifications of sufficient detail to allow a determination to be made by the Town Engineer that the proposed construction will be at least equal to the Town's standards for the same type of construction.

(4) The applicant agrees to complete construction of the Town system according to the plans and specifications submitted and approved by the Town Engineer. The applicant further agrees to arrange for, at the applicant's expense, an independent qualified inspector acceptable to the Town to inspect all work to certify that it is in compliance with the approved plans and specifications.

(5) The applicant furnishes a performance bond or other suitable collateral sufficient to ensure that the construction will be completed in accordance with Town standards.

(6) The applicant agrees to assume all construction and related costs associated with the project.

(7) The applicant agrees to complete the project within a specified amount of time.

(8) The applicant agrees to be liable for all damages to persons or property related to the project.

(b) Where Town system lines are installed by a particular developer and accepted by the Town, and where said system lines may also later serve future developers, the Town may enter into a rebate agreement with the first developer in accordance with the following:

(1) The Town shall determine what equitable portion of the original cost should be attributed to future developers and that this amount will be collected from future developers and rebated to the initial developer.

(2) Rebates shall be made only over a maximum period of ten (10) years from the date of completion of the system line, and shall not include any interest value. (Prior code 14-1-23; Ord. 3 §6, 2001; Ord. 4 §1, 2009)

Sec. 13-1-280. Extension of Town systems outside Town boundaries.

(a) The Town systems may be expanded to serve customers outside of the Town limits only upon compliance with all of the terms and conditions hereafter stated.

(b) The owner of any land contiguous to the boundaries of the Town may request, in writing, water and/or sewer service for such lands by means of an extension of the Town systems. Such request must include:

(1) A legal description of the real property to be served;

(2) A description of the nature and scope of the owner's proposed land development;

(3) A statement as to the timing of the completion of said development; and

(4) An estimate as to probable flow requirements.

(c) Upon receipt of the written application referred to in Subsection (b) above, the Town Engineer shall review the application and the Town Council shall decide whether to provide such sewer and water service.

(d) If the Town Council decides to provide such sewer and water service, that fact shall be reported to the applicant for service, and the applicant shall prepare and submit to the Town Engineer, at the applicant's expense, an engineering feasibility study. Such study shall include, but not be limited to:

(1) A letter of application describing the area to be served, the nature of the proposed development and the timing of the development.

(2) Preliminary designs and cost estimates of required sewage collection and water distribution systems.

(3) Preliminary design of connection methods to the Town systems.

(4) Hydraulic analysis of the combined systems showing the effect of the added area on the Town's existing systems.

(5) Preliminary design and cost estimates for any treatment facilities required to be added as a result of the service to the applicant's area.

(6) Such additional information as the Town Engineer deems prudent and necessary.

(e) If any legal arrangements or considerations are necessary for the extension of Town systems to such applicant, such arrangements and considerations shall be accomplished by the Town, through Town Attorney, at the expense of the applicant. The applicant shall also pay the costs of a review of the engineering feasibility study by the Town Engineer. Upon presenting the study to the Town, the applicant shall deposit with the Town an amount sufficient to cover anticipated legal and engineering expenses.

(f) Upon the completion of the review and recommendations of the Town Engineer, and upon the Town Engineer's favorable recommendation to proceed with the requested extension of service, the Town and the applicant will negotiate for mutually agreeable terms of service. Upon arrival at mutually agreeable terms of service, the applicant shall have, at his or her expense, a contract for utilities service prepared by the Town Attorney. Such contract shall at least require:

(1) Payment of system development fees in accordance with the schedule set forth elsewhere in this Code;

(2) Payment of such additional dollar contributions by the applicant, in order to ensure that such extension of service does not adversely affect the Town's financial position;

(3) A service charge payment equal to one and one-half (1½) times the current Town rate until such time as the entire area to which service is extended is annexed to the Town;

(4) That all extensions and facilities are constructed to meet the construction standards set forth elsewhere in this Code;

(5) That all collection and delivery lines will be installed at the applicant's costs and inspected by the Town's inspector; and that all lines so installed will be in accordance with the Town's master planning in terms of size and placement;

(6) That the applicant will pay all project costs, including but not limited to engineering, legal, design, review, job inspection, drawings, surveys and easements;

(7) That the service lines shall be designed and installed by the Town or, if the applicant requests and the Town agrees, by an engineer or contractor selected by the applicant, so long as the Town reviews and approves all drawings, specifications and work;

(8) That the applicant will deed the entire delivery and collection system to the Town upon completion, or at some specified date subsequent to completion; and

(9) That the service area customers shall agree to abide by the Town's rules and regulations governing use of the Town systems.

(g) The Town may, if deemed equitable, enter into a rebate agreement with the applicant under the following terms and conditions:

(1) The Town may rebate to the original applicant and developer up to one-half ($\frac{1}{2}$) of any system development fees paid by new users tributary to interception and delivery lines laid by the original applicant. Such rebates will be allowed for a period not to exceed ten (10) years from the date of the contract for utilities service referred to in Subsection (f) above, and will bear no interest.

(2) Any other lines laid by the original applicant which are subsequently used by other developers shall give rise to a rebate to the original applicant of an amount determined by the Town on the basis of what portion of the original cost should be attributed to new users and developers. In no event shall such rebate exceed one-half ($\frac{1}{2}$) of the system development fee, and no rebate shall be given after ten (10) years from the date of the contract for utilities service with the original applicant. Such rebates shall bear no interest. (Prior code 14-1-24; Ord. 7 §22, 1994; Ord. 4 §1, 2009)

Sec. 13-1-290. Inspection and tests.

All plumbing and water service lines, including water meters and taps within the Town, are subject to inspection and testing and, in the case of water meters, inspection, testing, repair and maintenance during reasonable hours by the Town or its authorized representative in order to assure compliance with this Code. It shall be the duty of each user to notify the Town if his or her water meter is operating defectively. (Prior code 14-1-25; Ord. 3 §7, 2001)

Sec. 13-1-300. Rules and regulations.

The Town may, from time to time, promulgate such rules and regulations as it deems necessary to implement and carry out the intent of this Chapter; provided, however, that such rules and regulations shall not be inconsistent herewith. (Prior code 14-1-26)

Sec. 13-1-310. Discount for prepayment of service charges.

Any owner who pays a year's service charge in advance, on or before January 31 of any calendar year, shall be given a discount of four percent (4%) off the amount of twelve (12) monthly service charges. (Prior code 14-1-27)

Sec. 13-1-320. Rebate of system development fee.

In the event that any owner does not actually connect to a Town system within six (6) months of the granting of the permit referred to in Section 13-1-80 of this Article, he or she may apply for a rebate of the system development fee. In such event, ninety percent (90%) of the system development fee shall be rebated to the owner. The remaining ten percent (10%) of such fee retained by the Town shall be deemed necessary to cover the Town's administrative costs and capital expansion plans made in reliance of anticipated systems development needs. All service charges and connection fees paid by the owner in such circumstances shall be entirely retained by the Town. (Prior code 14-1-28; Ord. 7 §23, 1994; Ord. 4 §1, 2009)

Sec. 13-1-330. Rebate of sewer and water service charges.

(a) Any user of the Town systems who is a natural person who maintains his or her primary residence within the Town, who has an annual income exclusive of health or medical benefits or Social Security benefits less than twelve thousand dollars (\$12,000.00) and who is either permanently disabled or over sixty-five (65) years of age may, not later than April 15 of the next calendar year, apply, on such forms as shall be provided by the Town, for an annual sewer and water charge rebate from the Town in an amount equal to the additional service charges in effect on August 1, 1975.

(b) Each service charge rebate application shall be examined and reviewed by the Town Manager for such purpose and, if he or she is satisfied that the applicant qualifies for a rebate, he or she shall direct the Town Treasurer to pay the amount to which the applicant is entitled. (Prior code 14-1-29; Ord. 2 §1, 1989; Ord. 3 §1, 1995; Ord. 3 §8, 2001; Ord. 4 §1, 2009)

Sec. 13-1-340. Applicability.

This Chapter shall apply to all property within the boundaries of the Town, whether or not such property is connected to the Town's system; and shall, in addition, apply to all property outside of the Town to which service is furnished by the Town. (Prior code 14-1-30; Ord. 4 §1, 2009)

Sec. 13-1-350. Violation, liability and penalty.

Any person who violates any provision of this Article may be fined as provided in Section 1-4-20 of this Code. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Article. Any person violating any provision of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation. The remedies provided by this Article are cumulative and not exclusive, and are in addition to any other remedies provided by law. (Prior code 14-1-31; Ord. 3 §10, 2001; Ord. 4 §1, 2009)

Sec. 13-1-360. Liability of Town.

It is expressly ordained by the Town and agreed to by the consumer that no claim shall be made against the Town by reason of the breaking of any service pipe or cock or for any accidental failure in the supply of water. (Prior code 14-1-36)

ARTICLE 2

Water and Sewer Regulations

Sec. 13-2-10. Use of water during fire alarms.

During an alarm of fire and while the water pressure is on the pipes, the use of fountains, yard and street sprinklers and motors is expressly prohibited. (Prior code 14-1-32)

Sec. 13-2-20. Waste of water prohibited.

Consumers shall prevent unnecessary waste of water, shall keep sprinklers, pipes, hydrants, faucets, valves, hoses, stop boxes at the curb line and all apparatus in good condition at their own expense, and keep all water outlets closed when not in actual use. Keys to sprinklers are not allowed to remain exposed to use by others, nor shall these be used without a nozzle or used to throw water beyond the limits to be sprinkled. (Prior code 14-1-33)

Sec. 13-2-30. Running water unlawful.

The water at wash basins, water closets, urinals, baths, motors or any other places must not be left running to prevent water from freezing in the pipes or for any other purpose, without permission from the Town; and, for all unnecessary waste of water, the Town reserves the right to shut off the supply. (Prior code 14-1-34)

Sec. 13-2-40. Use of lawn sprinklers and other domestic irrigation.

(a) No user of water from the Town water system shall use or allow the use of Town water for watering and/or domestic irrigation except as hereafter set forth:

(1) No person, customer or property owner whose use or property is located on the north or west side of a Town street or having a street address ending in an odd number shall use Town water for lawn watering or domestic irrigation on any numbered day of the month ending in zero or an even number.

(2) No person, customer or property owner whose use or property is located on the south or east side of a Town street or having a street address ending in zero or an even number shall use Town water for lawn watering or domestic irrigation on any numbered day of the month ending in an odd number.

(3) Notwithstanding Paragraphs (1) and (2) above, no person, customer or owner shall use Town water for lawn watering or domestic irrigation between the hours of 10:00 a.m. and 5:00 p.m. or 10:00 p.m. and 5:00 a.m. on any day.

(4) For the purpose of this Section, *domestic irrigation* shall mean any outside watering of gardens, soil or vegetation.

(5) Notwithstanding any provision of this Section, a person, customer or property owner installing a new lawn may obtain permission from the Town Manager for daily watering of said lawn until such time as the grasses are established, so long as such daily watering is limited to the hours set forth in Paragraph (3) above.

(6) Notwithstanding any other section of this Code to the contrary, any person who violates the provisions of this Section shall commit offenses and be subject to a penalty as follows:

a. Any first offense shall be a petty offense subject to a twenty-five-dollar penalty assessment fine.

b. Any second offense shall be a petty offense subject to a fifty-dollar penalty assessment fine.

c. Any third or subsequent offense shall be a misdemeanor punishable by a mandatory minimum fine of one hundred dollars (\$100.00), up to and including three hundred dollars (\$300.00) for each offense.

(7) Notwithstanding the above restrictions on the use of lawn sprinklers and other domestic irrigation, the Town Manager may direct the use of lawn sprinklers and other domestic irrigation on public property at such times and on such schedule as the Town Manager may determine is necessary for the preservation of public property.

(b) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Article. Any person violating any provisions of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorney's fees, occasioned by reason of such violation. The remedies provided by this Article are cumulative and not exclusive, and are in addition to other remedies provided by law. (Prior code 14-1-35; Ord. 6 §1, 1989; Ord. 7 §§26—28, 1994; Ord. 21 §1, 2001; Ord. 4 §1, 2009)

Sec. 13-2-50. Mandatory on-site inspections.

(a) Water lines. After October 1, of each year, no water lines shall be connected to any Town water main, nor shall any work be performed to install any water line, until after an official designated by the Town has inspected the site where the work is to be performed and given permission for the work to proceed. The inspection required by this Section shall be required until such time in the spring of each year that said official has ascertained and posted a public notice that the ground has thawed.

(b) Sewer lines. After October 1 of each year, no sewer line shall be connected to any Town sewer collection line, nor shall any work be performed to install any sewer line, until after an official designated by the Town has inspected the site where the work is to be performed and given permission for the work to proceed. The inspection required by this Section shall be required until such time in the spring of each year that said official has ascertained and posted notice that the ground has thawed. (Prior code 14-2-1, 14-2-2; Ord. 4 §1, 2009)

Sec. 13-2-60. Installation of conservation devices.

All newly constructed units within the Town for which a tap-in permit is required pursuant to Section 13-1-80 of this Chapter, and all remodeling or renovation projects involving the installation of new plumbing and plumbing fixtures, shall include the following conservation devices:

- (1) Water saver toilets not to exceed three and one-half (3½) gallons per flush.
- (2) Shower heads with a nonadjustable flow control which will not allow a flow in excess of three and one-half (3½) gallons per minute.
- (3) All faucets of a water-saving design which limits the maximum flow to five (5) gallons per minute. (Prior code 14-4-1; Ord. 8 §1, 2001; Ord. 4 §1, 2009)

Sec. 13-2-70. Water meters required.

Each and every structure located within the Town which utilizes Town water or Town water service, and any other use which utilizes Town water or Town water service, shall have in place a Town-approved and inspected water meter device by April 1, 2003. The type and location of such meter shall be determined by the Utilities Director. Users will pay all costs associated with the purchase and installation of such meters.

- (1) Users who have not installed Town-approved and Town-inspected water meters as of April 1, 2003, shall be charged a monthly water service charge in the amount of four (4) times the EQR base charge for the use, and shall be in violation of this Article, subjecting them to penalties set forth in this Code and elsewhere. A grace period of ninety (90) days from the above date, until June 29, 2003, for the imposition of penalties for failure to be in compliance with all of the requirements of this Section, shall be granted.
- (2) No certificate of occupancy shall be issued for any structure for which a water meter has not been installed.
- (3) The only use of Town water which is permitted without a meter shall be the following:
 - a. Use for firefighting, including fire sprinkler systems within a structure, the testing of those systems and local fire department training purposes; and
 - b. Water system maintenance by the Town.
- (4) Users with meters already in place as of April 1, 2003, shall replace those meters with meters approved and inspected by the Town. The Town shall bear the cost of those replacement meters. The user shall pay the costs of the installation of the replacement meters. (Prior code 14-4-2; Ord. 3 §11, 2001; Ord. 9 §1, 2003; Ord. 4 §1, 2009)

Sec. 13-2-80. Requirement for issuance of permits.

No permit for a tap-in to the Town's water and sewer system, as required by Section 13-1-80 of this Chapter, shall be granted and issued unless the conservation devices and water meter required by this Code shall be installed and used. (Prior code 14-4-3)

Sec. 13-2-90. Dumping of sump pump water.

It is unlawful for any person to discharge water from sump pumps or other groundwater collection devices into the Town's sewer system. (Prior code 14-4-4; Ord. 4 §1, 2009)

Sec. 13-2-100. Limitation on issuance of tap-in permits.

(a) Purpose of limitation. The power to limit the issuance of tap-in permits is created in order to promote the public health, welfare and safety of the citizens of the Town. More specifically, said permit limitations will provide that development within the Town's boundaries will proceed in an orderly fashion and not in advance of the Town's ability to provide services for said development.

(b) Limitation of permits. No permit for a tap-in to the Town's water and sewer system, as required by Section 13-1-80 and as issued pursuant to Section 13-1-100 of this Chapter, shall be granted and issued unless done so under the terms, conditions and restrictions hereafter set forth.

(c) Grant of building permits. No building permit shall be issued by the Town pursuant to Chapter 18, Article 13 of this Code, for new units requiring a connection to the Town water and/or sewer system, or for expansion or change in use if the same raises the EQR rating for such use, unless and until a tap permit is granted and all system development and other fees have been paid as required by this Chapter.

(d) Paradise Park Subdivision. Tap-in permits will not be issued for structures in the one-hundred-year floodplain within Paradise Park Subdivision. The Town will deny future tap-in permits to property owners for significant new facility construction to be located in designated flood hazard areas in the Paradise Park Subdivision unless there are no practical alternatives. A *designated flood hazard area* is a floodway or floodplain, so determined by Federal Emergency Management Agency (FEMA) or another responsible agency of federal, state or local government, involving a one-hundred-year frequency flood hazard. This special mitigation measure will only pertain to newly issued taps within the impact area of the project to be financed by the United States Department of Agriculture, Rural Utilities Service (RUS), and will not involve any other areas within the Town's overall service area. This impact area of the project has been determined to be Paradise Park Subdivision. (Prior code 14-4-6; Ord. 7 §30, 1994; Ord. 2 §12, 2003)

Sec. 13-2-110. Violation and penalty.

(a) Offense. Any person who violates any of the provisions of this Chapter shall be fined in accordance with the provisions of Section 1-4-20 of this Code.

(b) Actions. The erection, construction, alteration, enlargement, conversion, moving or maintenance of any building; and the use of any land, building or structure; which activity or use is continued, operated or maintained contrary to any provision of this Chapter; shall be unlawful. The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be maintained and instituted by any property owner who is damaged by a violation of this Chapter.

(c) Remedies. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Prior code 14-4-5; Ord. 7 §29, 1994; Ord. 4 §1, 2009)

ARTICLE 3

Watershed Protection District

Division 1 General Provisions

Sec. 13-3-10. Established.

The Crested Butte Watershed Protection District is hereby established. (Ord. 6 §1, 2008)

Sec. 13-3-20. Purpose and authority.

The purpose of the Watershed Protection District is to protect the municipal waterworks from injury and the municipal water supply from pollution, pursuant to the authority granted to municipalities by Section 31-15-707(1)(b), C.R.S., or other similar authority to protect municipal watersheds that may be granted by the Colorado General Assembly. (Ord. 6 §1, 2008)

Sec. 13-3-30. Jurisdiction and map.

The boundaries of the Watershed Protection District encompass the Town of Crested Butte waterworks and any source of municipal water supply, including all reservoirs, streams, trenches, ditches, diversion structures, pipes and drains used in and necessary for the construction, maintenance and operation of the municipal waterworks, and for five (5) miles above the points of diversion of water for use of the Town. This jurisdiction also extends to groundwater underneath lands within the five-mile area. The official Watershed Protection District map depicts the Watershed Protection District boundaries and is located in the office of the Town Clerk. (Ord. 6 §1, 2008)

Sec. 13-3-40. Applicability.

This Article shall apply to any activity on public and private land within or partially within the Watershed Protection District. (Ord. 6 §1, 2008)

Sec. 13-3-50. Effective date.

This Article, including any future amendments, shall take effect immediately upon adoption by the Town Council of the ordinance codified herein, unless otherwise set forth in Council's motion of approval. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-60. Permit required.

No person shall engage in, cause, allow or conduct any activity within or partially within the Watershed Protection District prior to obtaining a watershed permit issued by the Town.

(1) Permit not a site specific development plan. Watershed permits issued under this Article shall not be considered to be a site specific development plan, and no statutory vested rights shall inure to such permit.

(2) Transfer of permit. The Town Council may approve the transfer of a watershed permit. Approval of a transfer shall be in writing and, in approving any transfer, the Town Council shall ensure that the proposed transferee can and will comply with all of the requirements, terms and conditions contained in the watershed permit; that such requirements, terms and conditions remain sufficient to protect the quality and quantity of water in the watershed and to protect the municipal waterworks from injury; and, if applicable, that an adequate guarantee of financial security will be made.

(3) Permit duration.

a. The activity shall begin within one (1) year of the effective date of the watershed permit issued under this Article, or the permit shall expire and be of no force and effect; provided, however, that the Town Council may grant a one-time extension where the applicant so requests such an extension at least thirty (30) days prior to the expiration thereof and the applicant shows good cause.

b. The watershed permit shall include a term as determined by the Town Council.

c. Where the permit is issued for a specific term, at the end of the term of the permit, the permit shall terminate and be of no force and effect, and any land disturbance shall be reclaimed in accordance with an approved reclamation plan. (Ord. 6 §1, 2008)

Sec. 13-3-70. Relationship to county land use authority.

(a) County land use authority preserved. Nothing in this Article is intended to supersede or abrogate the County's authority to regulate land use within the unincorporated areas of the Watershed Protection District.

(b) County land use permit required. No watershed permit shall be effective until all necessary county approvals and permits have been issued.

(c) More stringent requirement applies. Wherever there is a conflict between a county permit requirement and a Town watershed permit requirement, the most protective to water quality and quantity shall apply.

(d) Concurrent review of county and Town permit applications. Applications for watershed permits may be reviewed concurrently with applications for county approvals and permits.

(1) Minor impact activity. A watershed permit application for a minor impact activity may be approved by the Town before county approvals and permits have been granted; however, the watershed permit is not effective unless or until all necessary county permits and approvals have been obtained.

(2) Major impact activity. A watershed permit application for a major impact activity will not be scheduled for a public hearing with the Town Council until all necessary county, state, federal and any other permits and approvals have been obtained. (Ord. 6 §1, 2008)

Sec. 13-3-80. Intent to not duplicate other permit requirements or processes.

To the extent practicable, the Town intends to avoid duplicative watershed permit submittal requirements and processes. The applicant may submit any county, state and federal permit application materials to the Town that will satisfy a watershed permit application submittal requirement under this Article. (Ord. 6 §1, 2008)

Sec. 13-3-90. Preemption by state or federal law.

Preemption of one (1) or more provisions of these regulations by state or federal law shall not be presumed. The burden of proof shall be on the applicant to demonstrate to the satisfaction of the Town that a provision is preempted. (Ord. 6 §1, 2008)

Sec. 13-3-100. Exemption.

The United States Forest Service ("Forest Service") shall be exempt from application of these Watershed Protection District regulations for activities conducted by the Forest Service, its employees, agents, contractors or others acting on its behalf on national forest system lands. The Forest Service shall, however, provide the Town with a notice of proposed activities which shall include:

- (1) A written description of the activities to be conducted within the Watershed Protection District;
- (2) A copy of any final agreements, contracts or other arrangements made with any agents, contractors or others acting on behalf of the Forest Service, other than employees of the Forest Service, in performing said activities; and
- (3) A description of the impacts that the activity will have on the watershed and any mitigation proposed in connection with the activity. (Ord. 6 §1, 2008; Ord. 14 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-110. Modification of nonconforming activity.

An activity that was legally established before the effective date of the ordinance codified herein that does not conform hereto, and ordinary repairs and maintenance, shall be allowed to continue under the following conditions:

- (1) A legal nonconforming activity shall only be modified in a manner that decreases or does not expand the nonconforming activity.
 - a. Expansion or relocation onto new land. Expansion or relocation of a legal nonconforming activity onto new land shall be prohibited unless a watershed permit is granted under this Article.
 - b. Change in intensity of activity. An increase in the intensity of a legally nonconforming activity shall be prohibited unless a watershed permit is granted under this Article. Increases in intensity include, but are not limited to, increased density, increased areas of impervious surface, increased use of processes or materials or increased disturbances that could cause or contribute to pollution of the watershed.

(2) Any legal nonconforming activity that is abandoned or discontinued for a period of one (1) year or more may not recommence unless a watershed permit is granted under this Article.

(3) A legal nonconforming activity that is damaged or destroyed by an act of God or through any manner not intentionally accomplished by or for the owner may be restored, regardless of the extent of damage or destruction, if the following conditions are met:

a. The owner shall acquire all county, state or federal permits and approvals required for construction and operation of the restored activity.

b. The activity shall not be restored in a manner that expands or increases the intensity of the nonconforming nature of the activity.

c. The activity shall be restored within eighteen (18) months of the date of damage or destruction. A one-time extension of time may be granted by the Town Council if it finds that:

1. There would be a substantial hardship to the owner without the extension; and

2. Within the first twelve (12) months after damage or destruction of the activity, the owner has substantially cleaned up the site, removed debris and initiated efforts to begin restoration of the activity. (Ord. 6 §1, 2008)

Sec. 13-3-120. Classification of activity as major or minor impact.

(a) Classification. For purposes of watershed permit review, activities shall be classified as a minor impact activity or major impact activity by the Town.

(b) Minor impact activity. An application for a watershed permit for a minor impact activity shall be reviewed administratively by the Town under the process set forth in Section 14-5-18, C.R.S. An activity shall be classified as a minor impact activity if it consists of the following elements:

(1) The activity, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the watershed, the municipal waterworks or municipal water supply, taking into consideration the watershed protections standards set forth in Division 2 of this Article; and

(2) The activity has been or will be properly permitted by the County and/or applicable state and federal authorities.

(c) Major impact activity. An activity that is not classified as a minor impact activity shall be classified as a major impact activity subject to the review process set forth in Section 13-3-720 of this Article. The application for a major impact activity requires a public hearing and decision by the Town Council.

(d) Level of permit review. The Town staff shall determine the level of permit review following the preapplication conference.

(1) Written notice. Within five (5) calendar days of the determination of level of permit review, the Town staff shall notify in writing the applicant, the Town Council, the Town Manager and the Town Attorney of the determination of level of permit review.

(2) Change in level of permit review.

a. At any time prior to the final decision on an application for a watershed permit, the Town staff may decide that information received subsequent to the determination of level of permit review indicates that the nature and scope of the impacts of the proposed activity require the application to be reclassified to a different level of permit review.

b. The Town shall immediately notify the applicant in writing that a change is required. (Ord. 6 §1, 2008)

Sec. 13-3-130. Ex parte communication.

Once an application for watershed permit has been received by the Town Manager, members of the Town Council shall not engage in communications with any party regarding the application. It is the responsibility of each member of the Town Council to immediately disclose ex parte contact to the Town Manager and the Town Attorney. No ex parte communication shall be considered by the Town Council, or any of its members, in making a decision on an application for a watershed permit. (Ord. 6 §1, 2008)

Sec. 13-3-140. Consultant and referral agency review.

(a) Consultant review. The Town may retain legal and technical consultants to assist with the review of the application for a watershed permit.

(b) Referral agency review. The Town may send a copy of the application to and seek review comments from any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed activity to be considered by the Town. Referral agency comments must be received within thirty (30) calendar days from the date the application was referred by the Town.

(c) Review costs.

(1) The costs of legal counsel, consultant and referral agency review are the responsibility of the applicant.

(2) The Town may require a deposit for payment of legal counsel, consultant and referral agency review fees, based upon estimated review costs at the time of application and in addition to the application fees.

(3) The Town may suspend the application review process pending payment of review fees. (Ord. 6 §1, 2008)

Sec. 13-3-150. Definitions.

The following words and terms used in this Article shall have the meanings set forth below unless the context requires otherwise. Defined terms used in the plural throughout this Article shall have the same meaning as the defined terms appearing below in the singular.

Abandonment (of nonconforming use) means the intent to not continue the legally established nonconforming activity, coupled with a cessation of activities and discontinued use of the land and facilities in connection with the nonconforming activity.

Activity means any excavating, filling, grading, surfacing, construction or other activity, other than land preparation for agricultural uses and noncommercial gardening or landscaping that changes the basic character or increases the intensity of use of land or water.

Adverse means unfavorable, harmful or negative.

County means Gunnison County, State of Colorado.

Degradation means lowering in grade or desirability; lessening in quality.

Excavating means any act in which earth is moved or removed by means of any tools, equipment or explosives and includes augering, backfilling, boring, ditching, drilling, grading, plowing in, pulling in, ripping, scraping, trenching and tunneling.

Filling means the deposition of material brought from another location by other than natural means.

Floodplain means an area adjacent to a stream, which is subject to flooding as the result of the occurrence of an intermediate regional flood and which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes, but is not limited to:

- a. Mainstream floodplains;
- b. Debris-fan floodplains; and
- c. Dry wash channels and dry wash floodplains.

Geologic hazard means a geologic phenomenon which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes, but is not limited to:

- a. Avalanches, landslides, rock falls, mudflows and unstable or potentially unstable slopes;
- b. Seismic effects;
- c. Radioactivity; and
- d. Ground subsidence.

Grading means any stripping, excavating, filling, stockpiling or any combination thereof.

Groundwater means subsurface waters in a zone of saturation.

Impact means any alteration or change to the natural or human environment resulting directly or indirectly from land use and development.

Impervious materials means materials that do not readily allow water to infiltrate into the ground. The term *impervious materials* shall include building roof surfaces and overhangs, concrete or asphalt surfaces and compacted gravel.

Include means including without limitation.

Mitigation means an action which will have one (1) or more of the following effects:

- a. Avoiding an impact by not taking a certain action or parts of an action;
- b. Minimizing impacts by limiting the degree or magnitude of the action or its implementation;
- c. Rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service;
- d. Reducing or eliminating the impact over time by preservation and maintenance operations; and
- e. Compensating for the impact by replacing or providing suitable biological and physical conditions; and by replacing or providing suitable services and facilities.

Net effect means the impact of an action after mitigation.

Non-Point Source (NPS) pollution means pollution that is caused by or attributable to diffuse sources. Typically, NPS pollution results from land runoff, precipitation, atmospheric deposition or percolation.

Permit or watershed permit means a permit issued pursuant to this Article.

Permittee means a person issued a permit.

Person means any individual, corporation, business trust, estate, trust, partnership, association, governmental entity or any other legal entity.

Pollution means the man-made, man-induced or natural degradation of the physical, chemical, biological and/or radiological integrity of water.

Regulations means the Watershed Protection District regulations set forth in this Article.

Significant means of considerable or substantial consequence.

Significant adverse effect/impact means an impact of an action that, after mitigation, is considerable or substantial and unfavorable or harmful.

Significant degradation means lowering in grade or desirability to a significant, rather than trifling, degree.

Staff means the Town's designated staff members, its third party consultants, attorneys and the like, as determined by the Town Manager.

Substantial means material, considerable in importance, value, degree, amount or extent, as determined by the Town staff or Town Council.

Surfacing means covering the natural topography with asphalt, gravel or similar materials.

Town Council means the Town Council or the Town of Crested Butte, Colorado.

Water body means a perennial or intermittent river, stream, lake, reservoir, pond, spring or wetland, but does not include irrigation ditches, roadway drainage ditches, artificial lakes or ponds or wetlands that are created and used for the primary purpose of agricultural operations.

Watershed means the area encompassed by the Watershed Protection District.

Waterworks means all components of the Town's water supply system, including all equipment, diversion structures, dams, reservoirs, pipelines, wells, pumps, buildings, structures, roads, watercourses and other facilities necessary for the construction, maintenance and operation of the water supply system.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include wet meadows, fens and riparian areas and similar areas. For purposes of this definition, the procedures used to identify a wetland are as described in the 1987 Army Corps of Engineers Wetland Delineation Manual. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Division 2
Watershed Protection Standards

Sec. 13-3-210. Basis of approval.

Approval of a watershed permit shall be based on whether the proposed activity satisfies the watershed protection standards contained in this Division. In determining whether the proposed activity satisfies the applicable standards, the Town shall take into consideration, without limitation, the construction, operation and cumulative impacts of the activity. Application submittal requirements are described in Division 3 of this Article. The application review process for minor impact activity or major impact activity review is set forth in Sections 13-3-710 and 13-3-720, respectively. (Ord. 6 §1, 2008)

Sec. 13-3-220. Prohibited activities.

(a) No pesticides, petroleum products, hazardous substances, hazardous wastes, toxic substances or other substances that have the potential to degrade water quality shall be stored within five hundred (500) horizontal feet of any water body. The preceding prohibition shall not apply to the use and storage in consumable quantities of everyday consumer products (e.g., laundry detergent, propane, automobile fuels located in an automobile) in the ordinary course of consumer conduct, provided that such products are consumed, stored and disposed of in accordance with all manufacturers' use, storage and disposal guidelines, and in accordance with all applicable county, state and federal laws. No sand and salt for road deicing shall be stored within five hundred (500) horizontal feet of any water body. Open storage of fertilizers within five hundred (500) horizontal feet of the water body is also prohibited.

(b) Construction activities within any waters in the Watershed Protection District are prohibited, except Town-authorized streambank reinforcement or repair, water diversion placement or repair or stream crossings. Authorized construction will utilize measures to protect water quality and channel stability, including, without limitation:

- (1) Water body isolation through the use of coffer dams.
- (2) Complete containment of the water body in the area of the disturbance.
- (3) Acceptable water body crossing structures.
- (4) Limitations on the dates when in-water body work can be performed.

Construction will conform to applicable Section 404 permitting requirements. (Ord. 6 §1, 2008)

Sec. 13-3-230. Storage, use and containment of substances.

In addition to the prohibitions in Section 13-3-220 above, all pesticides, petroleum products, hazardous substances, hazardous wastes, toxic substances and other substances shall be stored, contained and used in compliance with applicable county, state and federal regulations.

(1) Spill prevention. Measures shall be implemented to prevent spilled fuels, pesticides, petroleum products, lubricants, hazardous substances, hazardous wastes, toxic substances and other substances from entering a water body during the conduct of the activity. If a spill occurs, it shall be handled in accordance with a Town-approved spill prevention, storage, control, countermeasure and contingency plan.

(2) Machine maintenance. Maintenance of vehicles or mobile machinery is prohibited within one hundred (100) feet of any water body. Emergency maintenance may be conducted, however, until the vehicle or machinery can be relocated.

(3) Containment and storage measures. Containment and storage measures shall be undertaken to prevent the release of all pesticides, petroleum products, hazardous substances, hazardous wastes, toxic substances and other substances into any water body and shall be undertaken in accordance with a Town-approved spill prevention, storage, control, countermeasure and contingency plan.

(4) Waste storage. Areas used for the collection and temporary storage of solid or liquid waste shall be designed to prevent discharge of these materials in runoff from the site. Collection sites shall be located away from the storm drainage system. Other best management practices, such as, for example, covering the waste storage area, fencing the site and constructing a perimeter dike to exclude runoff, may also be required. All waste collection and storage shall be undertaken in accordance with a Town-approved spill prevention, storage, control, countermeasure and contingency plan. (Ord. 6 §1, 2008)

Sec. 13-3-240. County, state and federal permits.

(a) The applicant can or will obtain all county, state and federal permits and approvals necessary for the activity.

(b) A watershed permit application for a minor impact activity may be approved by the Town before other permits and approvals and permits have been granted; however, the watershed permit shall not be effective unless or until all necessary county, state and federal permits and approvals are obtained.

(c) A watershed permit application for a major impact activity will not be scheduled for a public hearing with the Town Council until all necessary county, state and federal permits and approvals have been obtained. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-250. Property rights and easements.

The applicant shall obtain all property rights and easements prior to site disturbance, including but not limited to surface mineral and water rights necessary for the activity. The Town may, at its discretion, defer making a final determination of completeness on the application until all outstanding property rights and easements have been obtained. (Ord. 6 §1, 2008)

Sec. 13-3-260. Expertise and financial feasibility.

The applicant shall have the necessary expertise and financial capability to develop and operate the activity in compliance with the requirements and conditions of this Article. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-270. Technical and financial feasibility.

The activity shall be technically and financially feasible. The Town may, without limitation, include the following considerations to determine technical and financial feasibility:

- (1) Amount of debt associated with the activity.
- (2) Debt retirement schedule and sources of funding to retire the debt.
- (3) Estimated construction costs and construction schedule.
- (4) Estimated annual operation, maintenance and monitoring costs.
- (5) Funding sources to undertake the activity and the continued compliance with the watershed permit and this Article.
- (6) Proof that the applicant possesses the technology and sufficient skill and expertise to utilize the technology to undertake the activity as proposed. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-280. Consistency with land use and water quality plans.

The activity shall be consistent with land use and water quality plans applicable within the watershed. Wherever there is a conflict between provisions of plans, the plan most protective to water quality and quantity shall apply. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-290. Impairment of property rights.

The activity will not impair property rights held by others. (Ord. 6 §1, 2008)

Sec. 13-3-300. Risk from natural hazards.

The activity shall not be subject to a significant risk from natural hazards. The Town may include, without limitation, the following considerations to determine risk from natural hazards:

- (1) Faults and fissures.
- (2) Potentially unstable slopes, including landslides and rockslides.
- (3) Expansive or evaporative soils and risk of subsidence.
- (4) Wildfire hazard areas.
- (5) Floodplains.
- (6) Steep slopes.
- (7) Mudflows.
- (8) Debris fans.
- (9) Avalanche areas. (Ord. 6 §1, 2008)

Sec. 13-3-310. Nonpoint source pollution.

All nonpoint sources of pollutants caused by or associated with the activity shall not result in any measurable increase in nonpoint source pollution loads to any water body affected by the activity. (Ord. 6 §1, 2008)

Sec. 13-3-320. Significant degradation.

(a) No significant degradation of surface water quality. The activity will not significantly degrade surface water quality within the Watershed Protection District. The Town may include, without limitation, the following considerations to determine the impacts of the activity:

- (1) Changes to existing surface water quality and composition, including, without limitation, chemical, physical and biological conditions thereof such as patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water, changes in concentrations of heavy metals and changes in the concentrations of nutrients, including phosphorus and nitrates.
- (2) Increase in erosion or sedimentation.
- (3) Changes in sediment or other pollutant loading to water bodies.
- (4) Changes in stream channel or shoreline stability.
- (5) Changes in surface runoff flows.

- (6) Changes in trophic status or in eutrophication rates in lakes and reservoirs.
- (7) Changes in the capacity or functioning of streams, lakes, reservoirs, springs or other water bodies.
- (8) Changes in flushing flows or amount of water runoff and other nonpoint sources of pollutants.
- (9) Changes to groundwater recharge or discharge patterns in the watershed.
- (10) Changes in stream flows which may alter the concentration of contaminants and erosion and create other sedimentation issues that result in the degradation of water quality.

(b) No significant degradation of wetlands and riparian areas. The activity will not significantly degrade wetlands and riparian areas. The Town may include, without limitation, the following considerations to determine the impacts of the activity:

- (1) Changes in the structure and function of wetlands and riparian areas.
- (2) Changes to the filtering and pollutant uptake and storage capacities of wetlands and riparian areas.
- (3) Changes to aerial extent of wetlands and riparian areas.
- (4) Changes in species' characteristics and diversity.
- (5) Transition from wetland to upland species.
- (6) Changes in function and aerial extent of floodplains.
- (7) Changes to wetlands that are hydrologically connected to wetlands in the area to be affected by the activity and proposed modifications of the surface or groundwater on those hydrologically connected wetlands.
- (8) Introduction of exotic, nuisance or invasive species.

(c) No significant degradation of groundwater. The activity will not significantly degrade groundwater quantity and quality within the Watershed Protection District. The Town may include, without limitation, the following considerations to determine the impacts of the activity:

- (1) Changes in aquifer discharge and recharge rates, groundwater levels and aquifer capacity, including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- (2) Changes in capacity and function of wells within the Watershed Protection District.
- (3) Changes in quality and quantity of well and other groundwater within the Watershed Protection District.
- (4) Changes in flow patterns of groundwater. (Ord. 6 §1, 2008)

Sec. 13-3-330. Tiered buffer zone setbacks.

(a) The activity, other than stream crossings and Town-authorized stream bank reinforcement or repair and water diversion placement or repair, shall be set back in accordance with a tiered water body buffer, which is more effective than a single setback requirement. This approach provides more flexibility on the location and nature of the activity in riparian zones. The following tiered approach to water body setbacks applies to all activities:

(1) A setback of twenty-five (25) feet, measured horizontally from the typical and ordinary high water mark in average hydrologic years on each side of a water body or field delineated wetland, is required. This setback shall be identified as the *restrictive inner buffer zone*. All activities are restricted within this restrictive inner buffer zone, except that some irrigation and water diversion facilities, flood-control structures, culverts, bridges and other reasonable and necessary structures requiring some disturbance within this setback may be permitted by the Town.

(2) There shall also exist a variable buffer beyond the restrictive inner buffer zone identified as the *variable outer buffer zone*. Activities within this variable outer buffer zone may be limited where necessary to protect the integrity of the water body or special site-specific features. The variable outer buffer zone shall range anywhere from zero (0) feet to one hundred (100) feet beyond the outer edge of the restrictive inner buffer zone described above (i.e., up to one hundred twenty-five [125] feet beyond the high water mark of the water body during average hydrologic years or the wetland boundary). The width of this variable outer buffer zone may be undulating across the subject property in order to provide protection to site-specific features. Site-specific features that could trigger the need for either a variable outer buffer zone and a setback therein, equivalent mitigation or a combination of a variable outer buffer zone setback and mitigation include, without limitation:

- a. Steep slopes draining into a water body.
- b. The presence of highly erodible soils.
- c. The presence of unstable stream bank conditions.
- d. The activity presents a special hazard to water quality (e.g., storage or handling of hazardous or toxic materials).
- e. The area is needed to protect trees, shrubs or other natural features that provide for stream bank stability, habitat enhancement for aquatic environments, riparian area protection, or to maintain predevelopment riparian plant or animal communities.
- f. The area is within the one-hundred-year floodplain.
- g. The area is needed to prevent or minimize flood damage by preserving stormwater and floodwater storage capacity.

(b) The following exceptions to the tiered water body buffer setbacks shall be permitted upon a demonstration by the applicant thereof by clear and convincing evidence that the activity is unavoidable in such location, that the activity shall be designed to minimize encroachment into the tiered water body

setback and that, after mitigation, the adverse impact to the water body, either directly or indirectly, shall be minimized to the maximum extent feasible:

(1) The activity in the tiered water body buffer is water-dependent (e.g., docks, piers, watercraft launches) and is authorized by the appropriate regulatory authority.

(2) The denial of the activity in the tiered water body buffer would result in denying the landowner all economically viable use of the subject property.

(3) Because of physical features, other restrictions and conditions on the subject property conducting the activity outside the tiered water body buffer would substantially create or contribute to a hazardous condition.

(c) Larger setbacks may be imposed as necessary to protect the quality and quantity of water in the watershed and to protect the municipal waterworks from injury as contemplated in this Article. (Ord. 6 §1, 2008)

Sec. 13-3-340. Minimization of impervious areas.

The impervious surface of the land disturbed by the activity shall not exceed twelve percent (12%) of the total acreage affected by the activity. (Ord. 6 §1, 2008)

Sec. 13-3-350. Flood hazard areas.

The activity will not have a significant adverse effect on designated flood hazard areas. The Town may include, without limitation, the following considerations to determine the impacts of the activity:

(1) Creation of obstructions from the proposed development during times of flooding and vulnerability of the proposed development to flooding.

(2) Use of flood-protection devices or floodproofing methods.

(3) Nature or intensity of the proposed development.

(4) Increases in impervious surface area caused by the proposed development.

(5) Increases in surface runoff flow rate and amount caused by the proposed development.

(6) Increases in floodwater flow rate and amount caused by the proposed development.

(7) Proximity and nature of adjacent or nearby land used.

(8) Impacts to downstream properties or communities.

(9) Impacts on shallow wells, waste disposal sites, water supply systems and sewage disposal or septic systems. (Ord. 6 §1, 2008)

Sec. 13-3-360. Rate and total volume of surface runoff.

The rate and total volume of surface runoff during and after construction will not exceed the level of runoff that occurred prior to construction. Energy dissipation measures will be installed where flows are anticipated in excess of five (5) feet per second, provided that the foregoing requirement may be varied if warranted by nonpervious surfaces. (Ord. 6 §1, 2008)

Sec. 13-3-370. Discharge into streams and water bodies.

Surface runoff resulting from the activity will not discharge directly into streams or other water bodies. Surface runoff from areas likely to contain pollutants will be contained on site and treated as necessary to prevent direct discharge into streams and water bodies. Surface runoff may be allowed to infiltrate in vegetated areas if such infiltration will not result in significant degradation of groundwater or surface water quality. Groundwater monitoring may be required to monitor potential subsurface transport of pollutants. (Ord. 6 §1, 2008)

Sec. 13-3-380. Impediment of flow in watercourses.

The activity will not impede flow in natural watercourses or create ponding in low points. (Ord. 6 §1, 2008)

Sec. 13-3-390. Erosion and sedimentation control.

- (a) The activity will be managed to control erosion and sedimentation.
- (b) On-site erosion will be minimized.
 - (1) The timing of earth-disturbing activities will be staged and scheduled to minimize soil exposure.
 - (2) Erosion- and sediment-control measures will be installed before site grading.
 - (3) Disturbed areas and soil stockpiles will be stabilized. Disturbed areas that will remain exposed and inactive for periods longer than fourteen (14) days will be protected from erosive forces and to minimize erosion.
 - (4) Disturbed areas will be mulched and seeded with native seeds and weed-free hay within seven (7) calendar days after final grade is reached, weather permitting.
 - (5) Temporary measures for soil stability, such as mulch or silt fences, will be kept in place until the vegetative cover has reached seventy percent (70%) of the disturbed area. The foregoing requirement may be varied for good cause shown.
- (c) Adjacent properties will be protected from sediment-laden runoff by use of sediment fences and sediment or silt traps or other appropriate control options.
- (d) Off-site run-on will be diverted around the construction site when practical.

(e) All erosion- and sediment-control devices will be inspected and repaired as necessary after any precipitation that creates significant runoff.

(f) All erosion- and sediment-control devices will be maintained in a manner to support their effectiveness.

(g) All vegetated areas disturbed by the activity will be restored in accordance with an approved revegetation plan. Noxious weeds will be managed pursuant to Town, county or USFS noxious weed control operations within the Watershed Protection District. In the event of any inconsistency among any of the foregoing noxious weed control operations, the strictest operation shall apply.

(h) In those areas where revegetation is required, the site shall be revegetated in such a way as to establish a diverse, effective and long-lasting vegetative cover that is capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer and is at least equal in extent of cover to the natural vegetation of the surrounding area; and the vegetation cover shall be capable of stabilizing the soil surface to achieve erosion control equal to preactivity levels. At a minimum, the mean total groundcover (non-noxious herbaceous and woody vegetation, plus rock, plus litter) in a reclaimed area will not be less than fifty percent (50%) of the mean total groundcover in a reference area at the ninety-percent level of statistical confidence five (5) years after reclamation activities have concluded. In this instance, the following terms have the following meanings:

Litter means any dead vegetation.

Reference area means a nearby area similar in slope and vegetative cover to the area to be disturbed.

Rock means any particles greater than two (2) millimeters in size capable of dispersing raindrops rather than allowing rain to carry sediment down slope

(i) All revegetation measures shall provide for the greatest probability of success in plant establishment and vegetation development by considering environmental factors, such as:

- (1) Seasonal patterns of precipitation, temperature and wind;
- (2) Soil texture and fertility;
- (3) Slope stability; and
- (4) Directions of slope faces.

Attention shall be given to biological factors, such as proper inoculation on legume seed, appropriate seeding and transplanting practices and care of forest planting stock.

(j) Revegetation measures shall ensure the establishment of a diverse and long-lasting vegetative cover, including appropriate techniques of site preparation and protection, such as:

- (1) Mechanical soil conditioning by discing and ripping;
- (2) Mulching;

- (3) Soil amendments and fertilizers; and
- (4) Irrigation. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-400. Slope control measures.

Disturbance and construction on steep slopes create an increased possibility for slope failure, erosion, accelerated runoff and subsequent associated water impacts. Activities on slopes with a gradient of greater than thirty percent (30%) shall be in accordance with, and conform to, the following requirements:

- (1) No alternative site for the activity with a slope gradient of less than thirty percent (30%) is available on the subject property.
- (2) The activity shall not create a significant disturbance of soil, including, without limitation, erosion, sloughing and other forms of instability.
- (3) Cutting, filling and other grading activities shall be confined to the minimum area of the subject property necessary for the activity.
- (4) A slope stability analysis in connection with the activity shall be performed by a state-licensed professional engineer, and such analysis shall demonstrate that the impacts of the activity on the subject property will not have a significant adverse effect on water quality and quantity and the impact on the slope can be adequately mitigated.
- (5) Where steeper slopes are disturbed by the activity, the activity shall be performed in a manner that minimizes the impact loss of existing vegetation.
- (6) On slopes steeper than a thirty-percent gradient, exposed soils shall be stabilized using appropriate techniques, such as hydromulching, erosion-control blankets, bonded-fiber matrices or other equally protective measures. Grass or straw mulch will be crimped, tracked or tacked in place to promote surface anchoring. (Ord. 6 §1, 2008)

Sec. 13-3-410. Impact on wells.

The activity will not negatively impact the rate of pumping, water quantity or water quality of drinking water wells. (Ord. 6 §1, 2008)

Sec. 13-3-420. Adequate wastewater treatment.

If applicable, the activity shall be served by wastewater treatment facilities that will comply with NPDES permit requirements and the applicable standards of the County Land Use Resolution and the County Individual Sewage Disposal System (ISDS) Regulations. Financial guarantees will be provided for ongoing operation of the facilities. (Ord. 6 §1, 2008)

Sec. 13-3-430. Preservation of natural features.

The activity shall be located to preserve the natural features of the affected lands and to minimize the negative impacts to all natural features. (Ord. 6 §1, 2008)

Sec. 13-3-440. Bridge and pipeline design and construction.

Bridges and pipelines shall be designed by a licensed engineer and shall be constructed to prevent obstruction to the one-hundred-year floodplain. Bridges shall be designed so that the river bottom under the bridge does not step down at the bridge, thereby creating unnecessary erosion as the river bottom is eaten by the river trying to even out the step. Bridges shall not unnecessarily constrict flows and thereby create dams or change stream or flood characteristics. (Ord. 6 §1, 2008)

*Division 3
Watershed Permits*

Sec. 13-3-510. Application submittal requirements.

(a) Submittal requirements apply to any watershed permit application for any activity. The Town may waive one (1) or more of the submittal requirements when the submittal requirement would not be relevant to a determination as to whether the proposed activity complies with the applicable watershed protection standards set forth in Division 2 of this Article.

(b) Submittal of application. The application materials shall be submitted to the Town Manager by the owner of the lands that are the subject to the activity, or any agent acting through written authorization of the owner. All owners of the lands that are the subject of the activity shall be named as applicants on the application. (Ord. 6 §1, 2008)

Sec. 13-3-520. Reimbursement agreement.

(a) The applicant shall be responsible for all of the actual costs and expenses whatsoever incurred by the Town in the review, processing and prosecution of an application for a watershed permit.

(b) An estimate of the costs and expenses to be incurred by the Town will be provided by the Town staff within ten (10) working days following the preapplication conference and shall reflect the estimated costs and expenses of reviewing, processing and prosecuting the application package, including, without limitation, the costs and expenses of copying, mailings, publications, labor and overhead, all hearings and meetings on the application package and the retention and use of any consultants, experts and attorneys that the Town staff deems advisable and appropriate to aid the same during the permit application and approval process.

(c) The application package shall be accompanied by an initial deposit of up to fifty thousand dollars (\$50,000.00) for a major impact activity. The Town shall establish and administer a projected schedule for the payment of installments of the aforesaid costs and expenses in connection with the application. The installments shall be structured so that, throughout the application process, the Town, at all times, retains a minimum balance of at least twenty thousand dollars (\$20,000.00). If the balance falls below the minimum balance, the Town may cease processing the application package pending receipt of additional installments bringing the balance to at least the minimum amount. The amount of the initial deposit and the minimum balance required may be reduced upon a finding by the Town that the application processing and review costs and expenses are likely to be less than the minimum amount set by this Section.

(d) The Town will deposit that portion of the initial deposit which is not necessary to cover current costs and expenses in an interest-bearing escrow account. The Town shall obligate, encumber or use such funds from time to time, at its discretion, when necessary to cover the costs of processing the application. Interest earned on the account will belong to the applicant and will be applied by the Town toward subsequent installments of the application costs.

(e) The Town will maintain accurate records of the manner in which the initial deposit is used and will make such records available for inspection by the applicant and the public at reasonable times as determined by the Town.

(f) Any portion of the initial deposit submitted by the applicant, or any interest earned on such initial deposit which is not necessary to cover the cost of processing the application package, will be reimbursed to the applicant after the application review process has been completed.

(g) The Town will take no action on the application package until all costs and expenses related to the application review process have been paid.

(h) At the time of submission of the application materials to the Town Manager, the applicant shall deliver to the Town an executed watershed permit costs and expenses reimbursement agreement obligating the applicant to reimburse the Town for all costs and expenses whatsoever incurred by the Town in connection with the processing, review and prosecution of a watershed permit. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-530. Information describing applicant.

The application shall contain the following information:

(1) The name, address, email address, fax number and business of the applicant and, if different, the owner of the project.

(2) Documentation of the applicant's financial qualifications and technical expertise and capability to develop and operate the activity, including a description of the applicant's experience developing and operating similar projects and using the technologies proposed to conduct the activity.

(3) The names, addresses and qualifications, including areas of expertise and experience with projects directly related or similar to the activity proposed in the application package, of individuals who are or will be responsible for constructing and operating the activity.

(4) Written qualifications of those individuals preparing reports and providing certifications required by this Article. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-540. Description of activity.

The application shall contain the following information:

(1) Narrative description. A written description of the activity.

(2) Vicinity map. An eight-and-one-half-by-eleven-inch vicinity map locating the site where the proposed activity will occur. The vicinity map shall clearly show the boundaries of the subject property and all property within a three-mile radius of the subject property.

(3) Site plan. A detailed site plan and specifications of the activity. The site plan shall include the following elements:

a. Legal description of the property.

b. Boundary lines, corner pins and dimensions of the site where the proposed activity will occur, including land survey data to identify the site with section corners, distance and bearing to corners, quarter corners, township and range.

c. Existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the activity and storm drainage.

d. Significant on-site and off-site features that influence the activity, including:

1. Natural and artificial drainageways, wetland areas, ditches and hydrologic features;

2. Slopes and areas of subsidence;

3. Vegetative cover; and

4. Dams, reservoirs, excavations and mines.

e. Existing and proposed roads, railroad tracks, irrigation ditches, fences and utility lines on or adjacent to the site, shown by location and dimension.

f. Users and grantees of all existing and proposed easements and rights-of-way on or adjacent to the site, shown by location and dimension.

g. All existing and proposed structures and appurtenant facilities, shown by location and dimension.

h. Existing and proposed parking areas, driveways, sidewalks and paths, shown by location and dimension.

i. Description of the wastewater treatment system proposed to serve the activity, including location and size of leach field, sewer service lines and treatment facilities.

j. Location and size of wells and/or water lines to serve the activity.

k. A description of the source and capacity of the water supply, including:

1. Amount and quality of water;

2. The applicant's right to use the water, including adjudicated decrees and applications for decrees;

3. Proposed points of diversion and changes in the points of diversion; and
4. The existing uses of the water.

If an augmentation plan for the activity has been decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan. For purposes of an activity involving storage, the applicant shall be the owner of the water rights to be stored in the facility. The applicant shall provide documentation of the applicant's ownership of the water rights to be store in the facility.

- l. Calculation of impervious surface area.

- m. Additional information that may be reasonably requested by the Town to enable an adequate evaluation of the application.

- (4) Phasing and scheduling. Schedules for designing, permitting, constructing and operating the activity, including the estimated life of the activity.

- (5) Operations of activity. Operational details, including the hours of operation, number of employees on site on a daily basis and types of vehicles that would be driven in the Watershed Protection District in association with the activity.

- (6) Alternatives. Discussion of the alternatives to the activity that were considered and rejected by the applicant, including the general degree of feasibility of each alternative and a statement explaining why there is no alternative outside the watershed.

- (7) Need for the activity. Discussion of the need for the activity, including existing and proposed facilities that perform the same or related function. (Ord. 6 §1, 2008)

Sec. 13-3-550. Property rights, permits and other approvals.

The following property rights and permits shall be included with the application:

- (1) A list of all federal, state and county permits and approvals that have been or will be required for the activity, together with any proposal for coordination with the Town's permitting process.

- (2) A description of property rights that are necessary for or that will be affected by the activity and documentation establishing property rights, and easement and right-of-way agreements connected with the site where the proposed activity will occur.

- (3) Copies of all official federal and state consultation correspondence, correspondence and submissions prepared for the activity; a description of all mitigation and surety required by federal, state and local authorities; and copies of any draft and final environmental assessments or impact statements required for the activity. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-560. Technical and financial feasibility of the project.

The following technical and financial information shall be included to determine the feasibility of the project:

(1) The estimated construction costs and period of construction for each development component and the total mitigation costs for the activity.

(2) Revenues and operating expenses for the activity.

(3) The amount of any proposed debt and the method and estimated cost of debt service.

(4) Details of any contract or agreement for revenues or services in connection with the activity.

(5) Description of the persons or entities who will pay for or use the activity and/or services produced by the activity and those who will benefit from any and all revenues generated by it.

(6) Means that will be used to continue operation of any treatment or other mitigation facility to prevent pollution from impacts of the activity that may go beyond the active life of the activity. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-570. Land use.

The application shall include the following descriptions:

(1) Description of the existing land uses within and adjacent to the site where the proposed activity will occur.

(2) Description of land use policies set forth in comprehensive plans, master plans and intergovernmental agreements that are applicable to the activity and an assessment of whether the activity will be consistent with or further the objectives of these policies. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-580. Surface and ground water quality and quantity.

(a) The following surface water quality and quantity data and information shall accompany the application:

(1) A map and description of all surface waters that will be affected by the activity, including a description of applicable state water quality standards and existing water quality for water bodies that will be affected by the activity.

(2) A map and description of existing points of diversion for municipal, agricultural, industrial and recreational uses of water.

(3) Descriptions of the immediate and long-term impact and net effects that the activity would have on the quantity and quality of surface water under both average and worst-case conditions.

(4) A description and net effects that the activity would have on municipal, agricultural, industrial and recreational uses of water under both average and worst-case conditions.

(5) A map and/or description of existing stream flows and reservoir levels.

(6) A map and/or description of existing minimum stream flows held by the Colorado Water Conservation Board.

(7) A map of all springs and seeps.

(b) The following groundwater quality and quantity data and information shall accompany the application:

(1) A map and description of all groundwater, including any aquifers, that will be affected by the activity. At a minimum, the following information shall be provided:

a. Seasonal water levels of the aquifer affected by the activity.

b. Artesian pressure in aquifers and a description of how the activity may affect adjacent communities and users on wells.

c. Groundwater flow directions and levels.

d. Existing groundwater quality and classification.

e. Location of all water wells and their uses.

(2) A description of the impacts and net effect of the activity on groundwater. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-590. Wetlands and riparian areas.

The following information regarding wetlands and riparian areas shall be included with the application:

(1) A map and description of all floodplains, wetlands and riparian areas that will be affected by the activity, including a description of each type of wetlands, species composition and biomass.

(2) A description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).

(3) A description of the impacts and net effect that the activity would have on the floodplains, wetlands and riparian areas. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-600. Required Plans.

(a) A Water Quality Monitoring Plan shall be required by the Town to develop the baseline conditions and to ensure compliance with standards. The contents of a Water Quality Monitoring Plan are outlined in Appendix C to this Code.

(b) A Revegetation Plan shall include the following elements and shall address all relevant issues in the Erosion and Sedimentation Control Standards set forth in Section 13-3-390 of this Article:

(1) Provisions by which disturbed areas are revegetated within one (1) year of disturbance.

(2) Provisions by which vegetation is reestablished so that the density is adequate to prevent soil erosion and invasion of weeds after one (1) growing season.

(3) Provisions by which to address the establishment, elimination and disposal of invasive weeds.

(4) Provisions for the applicant to monitor revegetation. The basis for the extent, scope and frequency of monitoring shall be stated, taking into consideration the specific conditions at the site. Such monitoring may employ methods different from those used in baseline vegetation data collection or evaluation of revegetation success.

(c) An Erosion and Sediment Control Plan shall include the following elements:

(1) Site map. A site map showing locations of any existing structures, water bodies or hydrologic features on the site, including intermittent water features, wetlands and the one-hundred-year floodplain boundaries.

(2) Drainage structures.

a. Locations of existing and proposed drainage structures or natural drainage features affecting site drainage on the parcel and within one hundred (100) feet adjacent to the site boundary, including drainage channels and other water conveyance structures, and wetlands or other water bodies receiving storm runoff from the site.

b. Preliminary engineering design and construction features for drainage structures to be constructed.

(3) Drainage plan. A drainage study for the activity shall be prepared and the site's drainage system shall be designed by a licensed professional engineer according to generally accepted storm drainage practices. The drainage study shall describe how the expected maximum water flows from any twenty-five-year flood event, and any one-hundred-year flood event shall be directed away from all buildings and other developed areas of the activity and adjacent lands and potential sources of water pollution. The drainage study shall anticipate flows from existing developed property, the proposed activity and other likely, future potential development. The drainage study shall show all existing lakes, wetlands, water courses and limits of tributary flows and, where practical, computation of expected tributary flows and the results indicated. The limits of the one-hundred-year floodplain shall be studied and plotted. Location and sizes of all culverts and other drainage structures shall be provided, and all bridges, drainage ditches, channels and easements shall be shown. A description of how runoff will avoid polluting existing lakes and water courses shall be included.

(4) Topography. Existing topography at reasonable contour intervals, to provide necessary detail of the site. The map should extend a minimum of one hundred (100) feet beyond the property line and show the location of the property line.

(5) Grading plan. A grading plan showing the proposed topography at reasonable contour intervals that provide necessary detail of the site. The plan shall show elevations, dimensions, location, extent and slope of all proposed clearing and grading, including building site and driveway grades.

(6) Soil stockpile and snow storage areas. Probable locations of soil stockpiles and snow storage areas.

(7) Equipment storage areas. Location of equipment storage areas.

(8) Temporary roads. Location of temporary roads designed for use during the construction period.

(9) Areas of steep slope. Areas with a slope of thirty percent (30%) or greater, identified by location and percentage of slope, both for the existing site conditions and within the developed area.

(10) Construction schedule. A construction schedule indicating the anticipated starting and completion time periods of the site grading and/or construction sequence, including the installation and removal of erosion and sediment control measures, and the estimated duration of exposure of each area prior to the completion of temporary erosion and sediment control measures.

(11) Permanent stabilization. A plan of how the site will be stabilized and reclaimed after construction is completed.

(12) Erosion control measures. Plan view drawings of all erosion and sediment control measures showing approximate locations and site drainage patterns for construction phases and final design elements. Text may be necessary to accompany and explain the drawings. Typical erosion control measures should be depicted using standard map symbols.

(13) Estimated cost. The estimated total cost (installation and maintenance) of the required temporary soil erosion and sediment control measures.

(14) Calculations. Any calculations made for determining rainfall, runoff, sizing any sediment basins, diversions, conveyance or detention/retention facilities.

(15) Additional information or detail. Other information or data, and additional detail as may be reasonably required by the Town.

(16) Signature blocks. Signature block for the owner or legal agent acknowledging the review and acceptance of responsibility, and a signature and stamped statement by the qualified individual acknowledging responsibility for the preparation of the Erosion and Sediment Control Plan.

(d) A Grading Plan shall be provided, showing elevations, dimensions, location and extent of all proposed grading, excavating, filling or surfacing to occur as a result of the activity, including the volume of material to be removed or moved.

(e) The Monitoring and Mitigation Plan shall describe the proposal for mitigation and monitoring to ensure that the activity will not harm, damage or injure the Town's waterworks or pollute the Town's water supply. At a minimum, the following shall be addressed.

(1) A description of all mitigation for the activity, including:

a. How and when mitigation will be implemented and financed; and

b. Impacts that are unavoidable and cannot be mitigated.

(2) A description of methodology used to measure the impacts of the activity and effectiveness of proposed mitigation measures.

(3) A description, location and intervals of proposed monitoring to ensure that mitigation will be effective.

(4) Written authorization, easements and other agreements that are necessary to conduct any proposed off-site mitigation and monitoring activities.

The Monitoring and Mitigation Plan shall contain reporting requirements acceptable to the Town to ensure that the activity will not harm, damage or injure the Town's waterworks or pollute the Town's water supply.

(f) The Spill Prevention, Storage, Control, Countermeasure and Contingency Plan shall describe in detail spill prevention, containment, control, storage, countermeasure and clean-up procedures and protocols that will prevent hazardous materials, pesticides, petroleum products, fuels, lubricants and other substances from entering into, harming, damaging or injuring the Town's waterworks or causing pollution to the Town's water supply. The minimum contents of the Spill Prevention, Storage, Control, Countermeasure and Contingency Plan are outlined in Appendix D to this Code.

(g) The Emergency Response Plan shall address fire protection, hazardous spills and other events that could pose a threat to the health, safety and welfare of the Town, including, without limitation, the owner's emergency contact information, proposed signage, access and evacuation routes and health care facilities anticipated to be used. The Plan shall include a provision for the owner to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

*Division 4
Review Process*

Sec. 13-3-710. Minor impact activity review process.

(a) An application for a watershed permit that is classified as minor impact activity shall be reviewed as set forth in this Section.

(b) Preapplication conference.

(1) An applicant for a minor impact activity watershed permit shall provide a conceptual site plan and description of the activity that is sufficient in detail to accurately convey the concept, character, location, parcel size and magnitude of the proposed activity.

(2) Any comments made by Town staff during the preapplication conference are preliminary in nature and not binding. Formal comments cannot be made by Town staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to comment.

(c) Submittal. The application submittal requirements for a watershed permit are described in Section 13-3-510 of this Article.

(d) Determination of completeness. Within thirty (30) calendar days of receipt of the application materials, the Town shall determine whether the application is complete based on compliance with the application submittal requirements.

(1) Incomplete application. If the application is not complete, the Town shall inform the applicant of the deficiencies in writing.

(2) Complete application. If the application is complete, the Town shall certify it as complete and stamp it with the date of determination of completeness.

(3) Extension of time for determination of completeness. The Town may extend the time to complete review for a determination of completeness up to an additional thirty (30) calendar days if the Town staff workload justifies the extension.

(4) Completeness not a determination of compliance. A determination that an application is complete shall not constitute a determination that it complies with the applicable Watershed Protection Standards set forth in Division 2 of this Article.

(e) Review by consultants and referral agencies. The application may be forwarded for review by legal counsel, consultants and referral agencies, pursuant to Section 13-3-140 of this Article, as determined to be necessary for Town staff to adequately review the activity for compliance with the Watershed Protection Standards set forth in Division 2 of this Article.

(f) Public notice of application. An application for a watershed permit for a minor impact activity requires public notice of the application as follows:

(1) Contents of notice. The notice of application for a watershed permit shall be prepared by Town staff and shall include the following information:

a. Sufficient information to identify the site where the proposed activity will occur.

b. A narrative description of the proposed activity.

c. Contact information and the deadline for public comments to be submitted.

(2) Public comment period. The public comment period for a minor impact activity shall be fifteen (15) days from the date of publication of the notice of application.

(3) Publication of notice. The applicant shall publish the notice of application in the Town's designated official newspaper, at the earliest possible date following the date of the determination of completeness.

(4) Mailing of notice to affected parties. Within five (5) calendar days of the date of the determination of completeness the applicant shall mail a copy of the notice of application to affected parties, as follows.

a. Property owners. The applicant shall mail the notice of application to owners of real property within five hundred (500) feet of the site on which the activity is proposed to occur. The list of property owners to whom the notice of application is mailed shall be compiled by the applicant. The burden is on the applicant to obtain complete and accurate current names and addresses.

b. Owners of mineral rights. The applicant shall mail the notice of application to the owners of mineral rights which may be impacted by the proposed activity. The list of owners of mineral rights to whom the notice of application is mailed shall be compiled by the applicant. The burden is on the applicant to obtain complete and accurate current names and addresses.

c. Certified mailing. The applicant shall mail the notice of application by certified mail, return receipt requested, to the affected parties. The applicant shall submit a list of the affected parties and proof of mailing to the Town.

(5) Posting of notice. Within fourteen (14) days of the date of the determination of completeness, the applicant shall post the notice of application on the site where the activity is proposed to occur. The posting shall consist of at least one (1) sign facing each adjacent public right-of-way, located within ten (10) feet of the property line and located so as to be fully visible from the right-of-way.

(6) Validity of notice. If the applicant makes reasonable good-faith efforts to accomplish the notice responsibilities identified above, the failure of an affected party to receive notice shall not affect the validity of final action by the Town to approve or deny the application.

(7) Applicant responsible for cost. The applicant shall be responsible for the cost of the public notice.

(g) Evaluation by Town staff. The Town staff shall review the application to determine if the proposed activity satisfies the Watershed Protection Standards set forth in Division 2 of this Article. The Town staff shall prepare a staff report discussing:

- (1) Whether the standards have been satisfied;
- (2) Issues raised through staff review and public comment;
- (3) Mitigation requirements;
- (4) Recommended conditions for approval to ensure that standards are satisfied; and
- (5) Additional information pertinent to review of the application.

Prior to final action by the Town, the staff report shall be submitted to the applicant, the Town Manager and the Town Council as a transmission. A copy of the staff report shall also be available for public review.

(h) Administrative staff decision. The Town shall approve, approve with conditions or deny the application. The Town's decision shall be based upon compliance of the proposed activity with the Watershed Protection Standards set forth in Division 2 of this Article.

(1) Approval of application. If the application, together with proposed mitigation, satisfies the Watershed Protection Standards set forth in Division 2, the application shall be approved.

(2) Denial of application. If the application fails to satisfy the Watershed Protection Standards set forth in Division 2, the application shall be denied.

(3) Conditional approval of application. The application may be approved with conditions determined necessary for compliance with the Watershed Protection Standards set forth in Division 2.

(4) County approval of proposed activity required. The Town staff may approve a watershed permit for a minor impact activity before county approvals have been granted; however, the watershed permit shall not be effective until all necessary state and federal approvals and permits are obtained.

(5) Written notice of decision. The Town staff shall inform the applicant of the approval, conditions of approval or basis for denial in writing within seven (7) calendar days of the date of decision. Notice of the decision shall also be provided to the Town Manager, Town Council, Board of County Commissioners and County Planning Director.

(i) Reconsideration of Staff decision.

(1) Call-up of decision. Within fourteen (14) calendar days after the date of the written notice of decision regarding an application for a minor impact activity permit, the Town Council may, at its discretion, decide to reconsider the decision at the next regularly scheduled meeting of the Town Council for which proper meeting notice can be accomplished.

(2) Request for reconsideration by Town Council. Within fourteen (14) calendar days after the date of the written notice of decision regarding an application for a minor impact activity watershed permit, an applicant, adjacent property owner or other interested party affected by the decision may request reconsideration of the decision. The Town Council shall reconsider the decision at the next regularly scheduled meeting of the Town Council for which proper meeting notice can be accomplished.

(3) Decision by Town Council. After reconsideration as described in Paragraphs (1) and (2) above, the Town Council shall uphold the Town staff decision, modify the decision or reverse the decision, based upon compliance of the propose activity with the Watershed Protection Standards set forth in Division 2 of this Article. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-720. Major impact activity review process.

(a) An application for a watershed permit that is classified as major impact activity shall be reviewed as set forth in this Section.

(b) Preapplication conference.

(1) An applicant for a major impact activity watershed permit shall provide a conceptual site plan and description of the activity that is sufficient in detail to accurately convey the concept, character, location, parcel size and magnitude of the proposed activity.

(2) Any comments made by Town staff during the preapplication conference are preliminary in nature and not binding. Formal comments cannot be made by Town staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to comment.

(c) Submittal. The application submittal requirements for a watershed permit are described in Division 3 of this Article.

(d) Determination of completeness. Within thirty (30) calendar days of receipt of the application materials, the Town staff shall determine whether the application is complete based on compliance with the application submittal requirements.

(1) Incomplete application. If the application is not complete, the Town staff shall inform the applicant of the deficiencies in writing.

(2) Complete application. If the application is complete, the Town staff shall certify it as complete and stamp it with the date of determination of completeness.

(3) Extension of time for determination of completeness. The Town may extend the time to complete review for the determination of completeness up to an additional thirty (30) calendar days if the Town staff workload justifies the extension.

(4) Completeness not a determination of compliance. A determination that an application is complete shall not constitute a determination that it complies with the applicable Watershed Protection Standards set forth in Division 2 of this Article.

(e) Review by consultants and referral agencies. Application materials shall be forwarded for review by legal counsel, consultants and referral agencies, pursuant to Section 13-3-140 of this Article, as determined to be necessary for Town staff to adequately review the activity for compliance with the Watershed Protection Standards set forth in Division 2 of this Article.

(f) Public hearing. Upon a determination of completeness, the Town staff shall schedule the application for public hearing by the Town Council.

(1) A watershed permit application for a major impact activity shall not be scheduled for a public hearing with the Town Council until all necessary county, state and federal permits and approvals have been obtained.

(2) Provided that all necessary county, state and federal permits have first been obtained by the applicant, the public hearing by the Town Council shall be held within forty-five (45) calendar days of the date of the determination of completeness.

(g) Notice of public hearing.

(1) Contents of notice. The notice shall be prepared by Town staff and shall include the following information:

a. Sufficient information to identify the site where the proposed activity will occur.

b. A narrative description of the proposed activity.

c. Date, time and location of the scheduled hearing.

(2) Publication of notice. The applicant shall publish the notice of public hearing in the Town's designated official newspaper at least thirty (30) calendar days prior to the date of the public hearing.

(3) Mailing of notice to affected parties. At least thirty (30) calendar days prior to the public hearing, the applicant shall mail the notice of public hearing to affected parties, as follows.

a. Property owners. The applicant shall mail the notice of public hearing to owners of real property within five hundred (500) feet of the site on which the activity is proposed to occur. The list of property owners to whom notice is mailed shall be compiled by the applicant. The burden is on the applicant to obtain complete and accurate current names and addresses.

b. Owners of mineral rights. The applicant shall mail the notice of public hearing to the owners of mineral rights, which may be impacted by the proposed activity. The list of owners of mineral rights to whom notice is mailed shall be compiled by the applicant. The burden is on the applicant to obtain complete and accurate current names and addresses.

c. Certified mailing. The applicant shall mail the notice by certified mail, return receipt requested, to the affected parties. Prior to the public hearing, the applicant shall submit a list of the affected parties and proof of mailing to the Town staff.

(4) Posting of notice. At least thirty (30) calendar days prior to the public hearing, the applicant shall post the notice of the public hearing on the site where the activity is proposed to occur. The posting shall consist of at least one (1) sign facing each adjacent public right-of-way, located within ten (10) feet of the property line and located so as to be fully visible from the right-of-way.

(5) Validity of notice. If the applicant makes reasonable good-faith efforts to accomplish the notice responsibilities identified above, the failure of an affected party to receive notice shall not affect the validity of final action by the Town Council in considering the application.

(6) Applicant responsible for cost. The applicant shall be responsible for the cost of the public notice.

(h) Evaluation by Town staff. The Town staff shall review the application to determine if the proposal satisfies the Watershed Protection Standards set forth in Division 2 of this Article. The Town staff shall prepare a staff report by addressing:

(1) Whether the standards have been satisfied;

(2) Issues raised through Town staff review;

(3) Issues raised through consultant and referral agency review;

(4) Mitigation requirements;

(5) Recommended conditions for approval to ensure that standards are satisfied; and

(6) Additional information pertinent to review of the application.

Prior to the public hearing, the staff report shall be submitted to the applicant, the Town Manager and the Town Council. A copy of the staff report shall also be available for public review.

(i) Town Council decision. The application for a major impact activity watershed permit shall be considered by the Town Council at a properly notice public hearing, conducted pursuant to the process set forth in Appendix E to this Code. The Town Council shall approve, approve with conditions or deny the application for watershed permit for major impact activity, based upon compliance of the activity with the Watershed Protection Standards set forth in Division 2.

(1) Approval of application. If the application, together with proposed mitigation, satisfies the Watershed Protection Standards set forth in Division 2 of this Article, the application shall be approved.

(2) Denial of application. If the application fails to satisfy the Watershed Protection Standards set forth in Division 2, the application shall be denied.

(3) Conditional approval of application. The application may be approved with conditions determined necessary for compliance with the Watershed Protection Standards set forth in Division 2.

(4) Written notice of Town Council's decision. The Town shall inform the applicant of the approval, conditions of approval or basis for denial in writing within ten (10) working days of the date of the Town Council's decision. Notice of the Town Council's decisions shall also be provided to the Board of County Commissioners and the County Planning Director. (Ord. 6 §1, 2008; Ord. 4 §1, 2009)

Sec. 13-3-730. Issuance of permit.

If the Town Council has approved or approved with conditions the watershed permit, the watershed permit shall be timely issued to the permittee. The permittee named on the watershed permit may include, at the Town's election, any parent or affiliated company of the permittee where such entities have the requisite financial capabilities and/or technical experience to conduct the activity in accordance with the watershed permit and/or to the extent one (1) or more of the permittees are foreign entities. In lieu thereof, upon approval of the Town Council, the Town may accept a parental or other form of guaranty guarantying the obligations of the permittee under the watershed permit. (Ord. 6 §1, 2008)

Sec. 13-3-740. Guaranty.

The Town may require, as a condition of any permit issued pursuant to this Article, that the permittee provide satisfactory security in the form of an irrevocable standby letter of credit in an amount necessary to ensure completion of all measures required and compliance with the standards contained in this Article, to prevent both injury and pollution to the Town's waterworks and water supply. In addition, the Town may require a similar form of security to cover ongoing maintenance of any facilities that are constructed to treat or maintain water quality and to ensure compliance with the sediment control plan. (Ord. 6 §1, 2008)

*Division 5
Enforcement*

Sec. 13-3-810. Staff authorized to inspect.

The Town is empowered to inspect and examine any building, other structure, parcel or other area of land where there is reasonable cause to believe that a use exists or construction, reconstruction, alteration or maintenance is being performed or has been performed in violation of this Article. (Ord. 6 §1, 2008)

Sec. 13-3-820. Consent to enter or administrative entry and seizure warrant not required.

Consent to enter or an administrative entry and seizure warrant shall not be required in the following circumstances:

- (1) To conduct inspections during regular business hours.
- (2) To conduct inspections within the scope of another official document.
- (3) To make observations of the premises in plain view from public property or from portions of the premises which are open or accessible to the public or in which the owner otherwise lacks a reasonable expectation of privacy.
- (4) In emergency situations in which the Town staff has reason to believe that the public health or safety is in imminent danger and could be jeopardized by delay. (Ord. 6 §1, 2008)

Sec. 13-3-830. Notice of violation and response.

Upon determination that an activity is proceeding in violation of the terms or conditions of the permit or any provisions of this Article, the Town may issue a notice of violation and require compliance within a specified period of time.

- (1) Notice requirements.
 - a. Service by mail. The notice shall be sent by certified mail, return receipt.
 - b. Content of notice. The notice of violation shall contain the following information.
 1. A list and description of all violations with references to the section or sections of the regulations violated.
 2. An order requiring correction of the violation.
 3. The date by which compliance shall be attained.
- (2) Response. A period of thirty (30) calendar days after the date of notice shall be allowed for response to a notice of violation:
 - a. The alleged violator shall respond by providing evidence satisfactory to the Town to show that the determination is in error; or

b. The alleged violator shall restore the site, structure or use of the property to compliance; an inspection by Town Staff shall be required to confirm compliance; or

c. The alleged violator shall obtain approval from the Town for an extension of time to attain compliance, showing good cause for extension, with such extension limited to sixty (60) days unless a longer period is approved due to extenuating circumstances ending with an inspection of the property by Town staff to confirm compliance. (Ord. 6 §1, 2008)

Sec. 13-3-840. Cease and desist orders.

(a) After a notice of violation and an opportunity to correct the violation, the Town may halt work on any land where there is a violation of a provision of this Article or of a permit issued hereunder, through issuance of a cease and desist order. If work continues, the unlawful erection, construction, reconstruction, alteration, maintenance or use shall be in violation of this Article.

(b) Failure to comply with the notice of violation shall be cause for permit suspension or revocation. (Ord. 6 §1, 2008)

Sec. 13-3-850. Acceleration of enforcement process.

The enforcement process may be accelerated if the Town makes a written finding that the public health, safety or welfare or the environment could be endangered by a continuing violation. After such finding is made, the Town Attorney shall take immediate action to end the threat to the public health, safety or welfare or the environment through, but not limited to, ex parte restraining orders as authorized under the Colorado Rules of Civil Procedure and/or action by local law enforcement or public safety agencies as deemed appropriate and necessary. (Ord. 6 §1, 2008)

Sec. 13-3-860. Legal action.

Upon determination of a violation of this Article, in addition to utilization of the enforcement and penalty powers of the Town, the Town may commence an action for appropriate legal or equitable relief in a court of competent jurisdiction, including the Municipal Court. In addition to the penalties provided herein, the Town shall be entitled to reasonable expert fees and attorneys' fees and costs of litigation. (Ord. 6 §1, 2008)

Sec. 13-3-870. Judicial review of Town Council's decision.

An applicant or permittee may appeal any final decision of the Town Council to the Municipal Court in accordance with applicable judicial appeals procedure. (Ord. 6 §1, 2008)

ARTICLE 4

Water Management Plan

Sec. 13-4-10. Intent and purpose.

It is the intent of this Article to establish long-term policies, goals and directives for the Town in the form of rules and regulations to be updated from time to time as needed concerning management of the

Town's water, its water rights and the uses to be made of that water in furtherance of the Town's obligations to its citizens and visitors. (Prior code 15-6-2)

Sec. 13-4-20. Content.

(a) The Water Management Plan shall consist of the following:

(1) A listing of all present rights held by the Town, the priorities of such rights, conflicts and possible challenges to said rights, and a brief description of the physical components which presently are utilized to making use of said rights.

(2) A step-by-step plan for increasing the use of present water rights, including the establishment of a capital improvement program, priorities for extension of the present water system, utilization of untreated as well as treated water, and cost estimates which establish the feasibility for any program of development of present water rights.

(3) Establishment of a program to increase present water rights to meet future needs to the Town. This portion of the Plan should address issues of annexation, alternatives to present water rights should the present sources become polluted or otherwise unavailable to the Town, and cooperative development of unappropriated or otherwise under-utilized water in the Upper East River Valley.

(4) Population and growth projections for the Town and region which utilize various sources of available information, to give the Town alternatives as to population growth, water usage projections and such other future projections which may affect the Town's water and water rights.

(b) The Plan should incorporate engineering reports and data concerning the feasibility of expansion of the Town's physical plant and system, cost projections and such other information that engineering concerns may impart to the Town's planning process.

(c) The above listing of information to be contained in the Water Management Plan is intended to be used as base information and not as limiting factors. (Prior code 15-6-3)

Sec. 13-4-30. Adoption.

The Water Management Plan shall be adopted by the Town Council of the by resolution in the form of rules and regulations. Future amendments and updates to said rules and regulations shall also be passed on by the Town Council by resolution from time to time as the need arises. Said rules and regulations shall be promulgated in a manner to carry out and implement the intent of this Article. (Prior code 15-6-4)

ARTICLE 5

Refuse and Sanitation System

Sec. 13-5-10. Definitions.

For the purposes of this Article, the following terms shall have the meanings given in this Section:

Ashes means the residue from the burning of wood, coal, coke or other fuel.

Disabled means to be so permanently incapacitated by injury or illness as to be incapable of engaging in gainful employment.

Dwelling means any building or part thereof designed or used for private residential purposes, and includes:

- a. Single-family dwelling, which is a building or mobile home designed or used for occupancy by one (1) family;
- b. Two-family dwelling, which is a building designed or used for occupancy by two (2) families living independently of each other; and
- c. Multiple-family dwelling, which is a building designed or used for occupancy by three (3) or more families living independently of each other.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food; provided, however, that *garbage* shall not include human body wastes.

Recyclable materials means those materials listed by the Gunnison County Recycling Center, or any other approved recycling entity, which may be collected and conveyed by the Town or its contractors, and which are identified as *recyclable materials* and placed in designated recycling bins.

Refuse means all putrescible and nonputrescible wastes, including, among other things, garbage, rubbish, street cleanings, dead animals, solid wastes and recyclable materials; provided, however, that *refuse* shall not include human body wastes, highly inflammable or explosive materials or ashes.

Rubbish means nonputrescible solid wastes, consisting of both combustible and noncombustible wastes, including but not limited to paper, cardboard, tin cans, yard clippings, wood, glass crockery, furniture, household items and similar materials. (Prior code 6-3-1; Ord. 22 §§1, 2, 1999; Ord. 4 §1, 2009)

Sec. 13-5-20. Compulsory refuse collection.

All refuse and ashes accumulated at or generated by the occupants of any dwelling within the Town shall be collected, conveyed and disposed of by the Town or its contractors. No other person shall collect, convey over any of the streets or alleys of the Town or dispose of any refuse accumulated at or generated by the occupants of any dwelling; provided, however, that this Article shall not prohibit the actual producer of refuse, or the owner or occupant of a dwelling at which refuse has accumulated, from personally collecting, conveying and disposing of bulky refuse of a type not normally collected by the Town or its contractors. All commercial uses must dispose of refuse and ashes generated by such use. (Prior code 6-3-2; Ord. 22 §3, 1999)

Sec. 13-5-30. Refuse containers.

- (a) No refuse shall be placed for collection except in designated recycling bins or in a fully enclosed container constructed of metal, rubber or other comparably impermeable materials.

(b) Every refuse container shall have:

(1) Handles;

(2) A lid;

(3) A capacity of thirty-five (35) gallons or less, except for ash containers, which shall have a capacity of not more than ten (10) gallons; and

(4) Such weight when filled that it may be handled and lifted by one (1) person without strain.

(5) In place of the above-listed containers, a wildlife-resistant refuse container as defined in Section 7-5-510 of this Code.

(c) Refuse containers shall be maintained in a serviceable, clean and sanitary condition and shall:

(1) Be free of leaks;

(2) Close properly;

(3) Be free of ragged or sharp edges or any other defect liable to hamper or injure the collector; and

(4) Meet all other requirements of this Article.

(d) No refuse container shall be placed for curbside pickup other than between the hours of 6:00 a.m. and 6:00 p.m. of the day for scheduled collection; except that any wildlife-resistant refuse container may be placed for curbside pickup between the hours of 6:00 p.m. on the day preceding the day for scheduled collection and 6:00 p.m. on the day for scheduled collection. After pickup, all refuse containers, except wildlife-resistant refuse containers, must be resecured inside the home, garage, business or wildlife-resistant enclosure by 6:00 p.m. on the day for scheduled collection. Wildlife-resistant refuse containers must also be removed from the curb after pickup by 6:00 p.m. on the day for scheduled collection. For purposes hereof, the definitions of *wildlife* and *wildlife-resistant refuse container* are set forth in Section 7-5-510 of this Code.

(e) Any container which fails to comply with all of the requirements of this Section shall be promptly replaced upon notice. (Prior code 6-3-5; Ord. 22 §5, 1999; Ord. 10 §§1, 2, 2007; Ord. 9 §§1, 2, 2008)

Sec. 13-5-40. Precollection practices.

(a) All refuse containers shall be placed for collection at ground level on the premises of the owner of said containers and not more than ten (10) feet and accessible from the street or alley from which collection is made. Refuse containers shall not be deemed accessible, as required by this Subsection, unless a path through accumulated snow has been made from the street or alley to the refuse containers. Containers may be placed for collection at other than ground level and at a distance of more than ten (10) feet from the point of collection after the alternative location and an additional fee to compensate for the extra collection service are approved, in writing, by the Town.

(b) All refuse, before being placed in a container, shall be:

(1) Drained of all free liquids; and

(2) Wrapped in plastic bags, paper or other similar material to prevent contamination of the container.

(c) Tree trimmings, hedge clippings and other bulky materials need not be placed in containers for collection, but shall be cut in lengths not to exceed four (4) feet and shall be securely tied in bundles not more than two (2) feet thick before being deposited for collection. (Prior code 6-3-6)

Sec. 13-5-50. Compulsory refuse collection fee.

(a) The owner of every dwelling within the Town shall pay to the Town each month the amount of fee established by the Town Council. That fee is set forth in Appendix A to this Code.

(b) If the owner of any dwelling within the Town has an annual income exclusive of health or medical benefits or Social Security benefits less than twelve thousand dollars (\$12,000.00) and is either permanently disabled or over sixty-five (65) years of age, the reduced collection rate shall be four dollars and twenty-five cents (\$4.25) for the dwelling unit within which such owner resides.

(c) All service charges shall be paid monthly, in advance, on or before the 15th of the month at the office of the Town. In the event of default or tardiness in any payment required by this Article, there shall be added a delinquency charge, plus the reasonable costs of collection, including attorney's fees. Service charges shall be charged against the property owner commencing upon the issuance of a certificate of occupancy or at the time of actual occupancy, whichever occurs first. Any delinquent payment shall constitute a lien against the property served and shall be collectible in the manner of delinquent taxes. (Prior code 6-3-7; Ord. 14 §3, 1993; Ord. 6 §1, 1997; Ord. 21 §3, 1997; Ord. 16 §3, 1999; Ord. 22 §6, 1999; Ord. 19 §4, 2001; Ord. 28 §1, 2002; Ord. 29 §4, 2003; Ord. 27 §2, 2004; Ord. 4 §1, 2009)

Sec. 13-5-60. Limitation on quantity collected.

(a) The basic monthly refuse collection rates set forth in Section 13-5-50 above entitle the owner or occupant of each dwelling within Town to have the Town or its contractors collect, once each week, the following accumulations of refuse and ashes, provided that the refuse and ashes are placed for collection at ground level and not more than ten (10) feet and accessible from the street or alley from which collection is made:

(1) Single-family dwellings, three (3) thirty-five-gallon containers or the equivalent thereof;

(2) Two-family dwellings, six (6) thirty-five-gallon containers or the equivalent thereof;

(3) Multiple-family dwellings, three (3) thirty-five-gallon containers or the equivalent thereof per dwelling unit.

(b) The basic monthly refuse collection rates set forth in Section 13-5-50 above entitle the owner or occupant of each dwelling within Town to occasionally exceed the accumulations set forth in Subsection (a) above by a reasonable amount. (Prior code 6-3-8; Ord. 22 §7, 1999; Ord. 4 §1, 2009)

Sec. 13-5-70. Nuisances.

It is hereby declared to be an illegal nuisance:

(1) To deposit any refuse or ashes in any stream, river or other body of water which flows through Town, whether such refuse is deposited in said stream, river or other body of water upstream from or within Town;

(2) To burn or permit to be burned any refuse within Town, except in an incinerator or other equipment found by the Sanitation Department to be effective for the purpose of air pollution control;

(3) To accumulate any refuse within Town for more than one (1) week;

(4) To deposit any refuse in such manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer or other public place or onto private property within Town; or

(5) To deposit any refuse in a manner that endangers or tends to endanger the public health within the Town. (Prior code 6-3-9)

Sec. 13-5-80. Waste receptacles on public property.

It is unlawful for any person or business entity to place a waste receptacle of any size on public property except as follows:

(1) Receptacles placed by, at the direction of or with the written consent of the Town; and

(2) Receptacles temporarily placed for residential collection, as set forth in Section 13-5-40 above. (Prior code 6-3-10; Ord. 14 §1, 1995; Ord. 4 §1, 2009)

Sec. 13-5-90. Violation; penalty.

Any person who violates the provisions of this Article shall be fined in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 6-3-11; Ord. 14 §1, 1995; Ord. 4 §1, 2009)